AGENDA REPORT

Meeting Date: September 15, 2009

Item Number: E-3

To: Honorable Mayor and City Council

From: George Chavez, Assistant Director of Community Development GC
Jesse A. DeAnda, Building Inspector

Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ADOPTING THE CITY OF BEVERLY HILLS FERAL CAT TRAP-NEUTER-RETURN (TNR) PROGRAM REGULATIONS AND GUIDELINES

Attachments: 1. Trap-Neuter-Return (TNR) Program Regulations and Guidelines Resolution

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RECOMMENDATION

Staff recommends that the City Council adopt the proposed resolution approving the City of Beverly Hills Feral Cat Trap-Neuter-Return (TNR) Program Regulations and Guidelines.

INTRODUCTION

The City of Beverly Hills Feral Cat Trap-Neuter-Return (TNR) Program Regulations and Guidelines are presented as required by reference in the "Regulations Regarding the Feeding and Care of Feral Cats Ordinance" approved by City Council on September 15, 2009. The Trap-Neuter-Return Program Regulations and Guidelines present the rules adopted by the City Council allowing TNR activities to be conducted by permit only.

DISCUSSION

The proposed Feral Cat Trap-Neuter-Return Program Regulations and Guidelines were presented and modified at the Public Hearings held on August 18 and September 1, 2009.

Following is a summary of the modifications made at the August 18, 2009, meeting:

Feeding and Trapping Hours on Public and Private Property: Feral cat feeding times would be limited to between the hours of 6:00 a.m. and 8:00 p.m., or sunset, whichever is earlier and trapping would be allowed only between sunset and 2:30 a.m. of the following day, which coincides with the City's overnight street parking restrictions. Additionally, feeding stations must be emptied by the TNR participants so as not to attract nocturnal animals. Also, when

conducting trapping activity the TNR Individual, TNR Partner or Feral Cat Caregiver may not leave the trap unattended. The individual is required to remain in visual contact with the trap to ensure humane trapping of the feral cats.

Maintenance: The TNR Individual, TNR Partner and Feral Cat Caregiver shall be required to maintain the feeding and trapping locations: fecal matter shall be removed within 50 feet of any feeder. This shall occur daily each time the caregiver places food in the feeder as well as when food is removed.

Identification: All feeding and trapping devices used on public property would be required to be labeled with the TNR Partner name and contact information. All TNR Partners and Feral Cat Caregivers would be provided with an permit card that is required to be visibly displayed on the person conducting the TNR activities. Identification must be carried at all times and, upon request, must be shown to any person along with the permit card when conducting TNR activities.

Fencing Requirements: An exception has been included in the proposed ordinance that would allow feral cat feeding on private property without the normally required six-foot barrier if an approved feeding device that prohibits other animals from accessing the food intended for the feral cats is used. The feeding device shall be approved by the Community Development Department.

Vaccinations: Trapped feral cats shall be required to be evaluated by a licensed veterinarian and shall be provided a rabies vaccine, the FVRCP vaccine and any other vaccine recommended by the veterinarian. If a feral car appears potentially symptomatic for FIV or FeLV, the medical care provider must administer a test for FIV/FeLV. Feral cats that test positive shall not be returned into the colony.

Additionally, at the September 1, 2009 meeting, the TNR Program Regulation and Guidelines were further modified to include that Feral Cat Caregivers be required to wear reflective vests and reflective badges when conducting nighttime TNR activities on public property.

Staff has finalized the attachments to the Regulations and Guidelines, and the final version is included with the attached Resolution for adoption of the Regulations and Guidelines for the Council's consideration.

FISCAL IMPACT

There will be an increase in Code Enforcement staff time to initiate and administer the TNR Program. Since the proposed TNR Permit is a no-fee permit, there would be no revenue generated to cover these costs. In view of the fact that staffing levels will not be adjusted, existing Code Enforcement response times will be increased.

Scott G. Miller, Director of Administrative Services, CFO	George Chavez, Assistant Director of Community Development
Finance Approval	Approved By

Attachment 1

Trap-Neuter-Return (TNR) Program Regulations and Guidelines Resolution

RESOLUTION NO. 09-R-_____

RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS ADOPTING THE CITY OF BEVERLY HILLS FERAL CAT TRAP-NEUTER-RETURN (TNR) PROGRAM REGULATIONS AND GUIDELINES

WHEREAS, the City Council, on September 15, 2009, adopted Ordinance No. _____ amending the Beverly Hills Municipal Code to add regulations regarding the feeding and care of feral cats; and,

WHEREAS, Ordinance No. _____ refers to Trap-Neuter-Return Program Regulations and Guidelines (the "Regulations and Guidelines") to be adopted by the City Council; and,

WHEREAS, the City Council considered the draft Regulations and Guidelines on August 18, 2009 and September 1, 2009; and,

WHEREAS, the City Council, in adopting Ordinance No. _____, found and determined the Ordinance and TNR Program to be exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the State CEQA Guidelines, 14 Cal. Code Regs Sections 15307 and 15308.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. That the City finds and determines that the proposed Regulations and Guidelines are exempt from the requirements of (CEQA) pursuant to the State CEQA

Guidelines, 14 Cal. Code Regs Sections 15307 and 15308 for the same reasons articulated in Ordinance No. _____, which reasons are hereby incorporated by reference.

Section 2. The City hereby adopts the *City of Beverly Hills Feral Cat Trap-Neuter-Return (TNR) Program Regulations and Guidelines*, attached hereto as Exhibit A, and incorporated herein by reference, which shall serve as the Regulations and Guidelines referenced in the Ordinance.

Section 3. The City Clerk shall certify to the adoption of this Resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of this City.

Adopted:

_____
NANCY KRASNE
Mayor of the City of Beverly Hills, California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:

_____
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

_____
SUSAN HEALY KEENE, AICP
Director of Community Development

City of Beverly Hills Feral Cat Trap-Neuter-Return (TNR) Program Regulations and Guidelines
(September 2009)

I. Introduction

Pursuant to the Provisions of Article 5 of Chapter 2 of Title 5 of the Beverly Hills Municipal Code, the City Council has adopted the following regulations and guidelines applicable to the conduct of feral cat TNR Programs.

II. Permit Required

TNR Partners and TNR Individuals shall obtain permits pursuant to Article 5 of Chapter 2 of Title 5 of the Beverly Hills Municipal Code, prior to commencing feeding or other TNR activities.

III. Application Requirements

Applicants for TNR permits shall complete the standard application form set forth in Attachment A to these Regulations and Guidelines. The City does not charge a fee for processing these applications.

IV. Standard Conditions of Approval

Applicants for TNR Permits shall agree to comply with and implement the following standard conditions of approval.

A. TNR Individual Permit Conditions

1. Feeding and trapping in alleys or on public property by a TNR Individual is prohibited.

2. TNR Individual shall

   a) Comply with the TNR Program and Guidelines Acceptable Standards of Care and Responsibilities

   b) Utilize humane TNR Program procedures of feeding and trapping techniques.

3. The TNR Individual shall maintain records of colony information and shall make such records available to the City upon request. Colony information shall include feeder and trap locations and cat

colony details to the extent known, including but not limited to an approximate number of:

a) Cats in colony;

b) Successful spayed-neutered, de-flead, and ear tipped cats; and

c) Successful adoptions.

4. The TNR Individual shall keep and maintain records for each colony cat, including each cat's rabies vaccination record/certificate, and the records shall be available and submitted to the City upon request.

5. The TNR Individual shall assist the City in resolving feral cat issues and respond to complaints involving feral cat colonies served.

6. A current and valid permit must be maintained and renewed prior to expiration; renewal requests shall be submitted at least thirty (30) days prior to expiration of the permit.

7. Any changes to permit feeding, trapping, or TNR Individual information must be immediately updated on existing valid permits with the City and may require permit modifications.

8. The TNR Individual shall have a licensed veterinarian evaluate the health of all trapped feral cats. Feral cats that have been spayed-neutered shall be ear-tipped for identification and be vaccinated, de-flead and returned back to the colony after surgery, if they cannot be adopted. If a feral cat appears potentially symptomatic for FIV or FeLV, the TNR Individual shall have a licensed veterinarian administer a test for FIV/FeLV. Feral cats that test positive shall not be returned back into the colony.

9. Vaccinations required to be administered shall include a rabies vaccine, the FVRCP vaccine and any other vaccine recommended by the licensed veterinarian who evaluates the feral cat(s).

10. Unless all known cats in a colony are neutered, the TNR Individual shall set humane traps regularly for the purpose of capturing feral cats to be spayed-neutered, and returned if they cannot be adopted.

11. The TNR Individual shall trap kittens and make every effort to have the kittens adopted and not returned to the colony.

12. The TNR Individual shall provide food and water to the colony cats on a regular basis, year round, using best practices to eliminate nuisance and unsanitary conditions.

13. The TNR Individual shall make reasonable, good faith efforts to provide needed veterinary care to colony cats that are visibly ill or injured.

14. TNR Individuals shall address and respond to complaints regarding colony cats.

15. Feedings on private property may only be done within an area that is enclosed by a minimum six foot (6') barrier to prevent the food from luring unintended animals into the area, unless a feeding device, approved by the Director of Community Development, is used that prevents other animals from accessing the food intended for the feral cats.

16. All feeders and traps shall have affixed to it an identification sticker in the form approved by the Director of Community Development.

17. The TNR Individual shall ensure that any associated Feral Cat Caregivers comply with all sanitation requirements and guidelines as provided in the TNR Program.

18. Sanitation of feeding and trapping areas, removal of food from containers, clean up, and maintenance of the feeding area is the responsibility of the TNR Individual.

19. A reasonable amount of food that is appropriate for the size of the colony utilizing the feeder may be placed in the feeder daily between the hours of 6:00 a.m. and 8:00 p.m., or sunset, whichever is earlier. Before 8:00 p.m. or sunset, whichever is earlier, of each day, the TNR Individual shall empty the food from the feeder so that no food remains in the feeder overnight.

20. Traps may be placed at the permitted location between the time of sunset and 2:30 a.m. of the next day, at which time said trap shall be removed from the location. A reasonable amount of food that is appropriate for the trapping of the feral cat(s) may be placed in the trap.

21. All feeding and trapping locations shall be kept free of excess food, debris and other materials used to maintain the colony. Cleanup and maintenance is the responsibility of the TNR Individual.

22. The TNR Individual shall be responsible for removing fecal matter within 50 feet of any feeder. Such removal shall be performed daily when the TNR Individual places food in the feeder as well as when the TNR Individual removes food from the feeder. All fecal matter shall be properly disposed.

23. When conducting trapping activities, the TNR Individual shall not leave traps unattended. The TNR Individual should remain within visual contact of the trap so as to engage in humane trapping of the feral cats.

24. The TNR Individual must comply with all applicable City, State, and Federal laws.

B. TNR Partner Permit Conditions

1. TNR Partners and Feral Cat Caregivers shall make reasonable, good faith efforts to have all cats in a colony neutered with the intention of reducing the size of the colony.

2. TNR Partners and Feral Cat Caregivers shall have a licensed veterinarian evaluate the health of all trapped feral cats. Feral cats that have been spayed-neutered shall be ear-tipped for identification and be vaccinated, de-flead and returned after surgery, if they cannot be adopted. If a feral cat appears potentially symptomatic for FIV or FeLV, the medical care provider shall administer a test for FIV/FeLV. Feral cats that test positive shall not be returned back into the colony.

3. Vaccinations required to be administered shall be include a rabies vaccine, the FVRCP vaccine and any other vaccine recommended by the licensed veterinarian who evaluates the feral cat(s).

4. Unless all known cats in a colony are neutered, TNR Partners and affiliated Feral Cat Caregivers shall set humane traps regularly for the purpose of capturing feral cats to be spayed-neutered, and returned if they cannot be adopted.

5. TNR Partners and affiliated Feral Cat Caregivers shall trap kittens and make every effort to have the kittens adopted and not returned to the colony.

6. TNR Partners and affiliated Feral Cat Caregivers shall provide food and water to the colony cats on a regular basis, year round, using best practices to eliminate nuisance and unsanitary conditions.

7. TNR Partners and affiliated Feral Cat Caregivers shall make reasonable, good faith efforts to provide needed veterinary care to colony cats that are visibly ill or injured.

8. TNR Partners and affiliated Feral Cat Caregivers shall keep and maintain records for each colony cat, including each cat's rabies vaccination record/certificate, and the records shall be made available to the City upon request. Feral Cat Caregivers' records must be submitted to the TNR Partner.

9. Before engaging in any feeding and trapping activities on private property, TNR Partners shall obtain the written and signed authorizations of the resident(s) and property owner(s), delineating the specific location(s) of feeding and trapping. Feedings on private property may only be done within an area that is enclosed by a minimum six foot (6') barrier to prevent the food from luring unintended animals into the area, unless a feeding device, approved by the Director of Community Development, is used that prevents other animals from accessing the food intended for the feral cats.

10. Feeding and trapping in alleys or on public property is prohibited, unless allowed by a TNR Partner permit issued by the City on an annual basis.

11. Types and Locations of Containers. The location and types of feeding containers must be pre-approved by the City and TNR Partners. Submittal of proposed feeding container information shall include but not be limited to photos, specifications, dimensions, and other pertinent information, and shall be provided to the City for approval prior to use.

12. TNR Partners shall ensure that associated Feral Cat Caregivers comply with all sanitation requirements and guidelines as provided in the TNR Program.

13. TNR Partners and Feral Cat Caregivers shall:

    a) Comply with the TNR Program Regulations and Guidelines Acceptable Standards of Care and Responsibilities (as defined within).

    b) Utilize humane TNR Program procedures for feeding and trapping.

14. TNR Partners shall provide training, guidance, and maintain records for Feral Cat Caregivers under the TNR Partner Permit and shall make such records available to the City upon request.

TNR Partners shall also maintain Colony information and shall make such information available to the City upon request. Colony information shall include feeder and trap locations and Colony details to the extent known, including but not limited to an approximate number of:

a) Cats in colony;

b) Successful spayed-neutered, de-flead, and ear tipped cats; and

c) Successful adoptions.

15. TNR Partners and affiliated Feral Cat Caregivers shall assist the City in resolving feral cat issues and respond to complaints involving permitted feral cat colonies served.

16. A current and valid permit must be maintained and renewed prior to expiration; renewal requests shall be submitted at least thirty (30) days prior to expiration of the permit.

17. Any changes to permit feeding, trapping, and Feral Cat Caregiver information must be immediately updated for existing valid permits with the City.

18. TNR Partners are encouraged to participate in public outreach and education programs in coordination with City staff at events such as the Farmers' Market, Health and Safety Expo and Team Beverly Hills and other means of outreach.

19. TNR Partners shall comply with any requirement of the City that the City believes may be necessary or desirable to address specific issues unique to the Feral Cat Colony to be served.

20. Feral Cat Caregivers associated with the TNR Partner may not add new feeding or trapping devices, and shall not relocate any approved trapping or feeding device without prior approval of a modification to a TNR Partner permit. Feeding devices may only be temporarily removed to service, maintain, or remedy any complaint situation.

21. Sanitation of feeding and trapping areas, removal of food from containers, clean up, and maintenance of the feeding area is the responsibility of the Feral Cat Caregiver or TNR Partner.

22. A reasonable amount of food that is appropriate for the size of the colony utilizing the feeder may be placed in the feeder daily between the hours of 6:00 a.m. and 8:00 p.m., or sunset, whichever

is earlier. Before 8:00 p.m. or sunset, whichever is earlier, of each day, the TNR Partner or affiliated Feral Cat Caregiver shall empty the food from the feeder so that no food remains in the feeder overnight.

23. Traps may be placed at the permitted location between the time of sunset and 2:30 a.m. of the next day, at which time said trap shall be removed from the location. A reasonable amount of food that is appropriate for the trapping of the feral cat(s) may be placed in the trap.

24. All feeding and trapping locations shall be kept free of excess food, debris and other materials used to maintain the colony. Cleanup and maintenance is the responsibility of the Feral Cat Caregivers or TNR Partner.

25. The TNR Partner or affiliated Feral Cat Caregiver shall be responsible for removing fecal matter within 50 feet of any feeder. Such removal shall be performed daily when the TNR Partner or affiliated Feral Cat Caregiver places food in the feeder as well as when the TNR Partner or affiliated Feral Cat Caregiver removes food from the feeder. All fecal matter shall be properly disposed.

26. When conducting trapping activities, TNR Partners and affiliated Feral Cat Caregivers shall not leave traps unattended. TNR Partners and affiliated Feral Cat Caregivers should remain within visual contact of the trap so as to engage in humane trapping of the feral cats.

27. Feedings on private property may only be done within an area that is enclosed by a minimum six foot (6') barrier to prevent the food from luring unintended animals into the area, unless a feeding device, approved by the Director of Community Development, is used that prevents other animals from accessing the food intended for the feral cats.

28. Feedings on public property may only be done within a feeding device, approved by the Director of Community Development, that is designed to prevent other animals from accessing the food intended for the feral cats.

29. All feeders and traps shall have affixed to it an identification sticker in the form approved by the Director of Community Development.

30. Permittee shall inform the City of any changes in Feral Cat Caregivers or their contact information within 10 days of such changes.

31. The TNR Partners and affiliated Feral Cat Caregivers shall display the City issued permit card on their person in a visible manner at all times while conducting TNR activities.

32. The TNR Partners and affiliated Feral Cat Caregivers shall carry with them an identification card or drivers license at all times while conducting TNR activities.

33. The TNR Partners and affiliated Feral Cat Caregivers shall show their identification card or drivers license to any person who requests to see such identification card or drivers license while the TNR Partner or affiliated Feral Cat Caregiver is conducting TNR activities.

34. The TNR Partners and Feral Cat Caregivers must comply with all applicable City, State, and Federal laws.

35. TNR Partners shall provide and maintain insurance as required in Article 5 of Chapter 2 of Title 5 of the Municipal Code, throughout the term of the permit. In addition, TNR Partners and Feral Cat Caregivers shall execute an indemnification, release and hold harmless agreement in the form approved by the City's Risk Manager.

36. Feral Cat Caregivers shall wear reflective vests and reflective badge when conducting nighttime activities on public property.

V. Revisions to TNR Program Regulations and Guidelines.

The City Manager, or his or her designee, shall have the authority to revise these TNR Regulations and Guidelines from time to time, in order to further the purpose of the City of Beverly Hills Feral Cat TNR Program. Notice shall be provided to TNR Individuals, TNR Partners and Feral Cat Caregivers of any revisions to these Regulations and Guidelines. Within 10 days of receipt of such notice, or within such other time approved by the Director of Community Development, TNR Individuals, TNR Partners and Feral Cat Caregivers shall bring their practices into the compliance with the revised Regulations and Guidelines.

Attachments:

1. TNR Permit Application Forms
2. TNR Permit Notice Form
3. Affidavit of Receipt of Regulations and Guidelines

TNR PARTNER PERMIT APPLICATION

APPLICANT

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Number: (_____) _____ - _____ Email: _____

TNR PARTNER

Partner Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Number: (_____) _____ - _____ Email: _____

FERAL CAT COLONY INFORMATION

BH Colony Location: _____

_____

_____

Will feeding occur on public property? Yes No

If Yes, General Liability Insurance is require for permit issuance and shall name the City as certificate holder and additional insured.

If No, Owner/Resident Authorization(s) must be provided to issue permit.

Number of cats in Colony: _____ Number of cats spayed/neutered: _____

Number of cats ear tipped: _____ Number of adoptions: _____

Number of Feeders: _____ Feeder Location(s): _____

_____

_____

Number of Traps: _____ Trap Location(s): _____

_____

_____

FERAL CAT CAREGIVER(S)

A Feral Cat Caregiver Affidavit is required to be presented for each person named below.

Name:	Contact Number:
_____	(_____) _____ - _____
_____	(_____) _____ - _____
_____	(_____) _____ - _____
_____	(_____) _____ - _____
_____	(_____) _____ - _____

Signature: _____ **Date:** _____

TNR INDIVIDUAL PERMIT APPLICATION

(Permit for Private Property Only)

APPLICANT

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Number: (_____) _____ - _____ Email: _____

Is feeding location same as mailing address listed above? Yes No

If feeding location is not the same as mailing address please identify the feeding address location:

_____

FERAL CAT COLONY INFORMATION

BH Colony Location: _____

_____

_____

Owner/Resident Authorization(s) must be provided to issue permit.

Number of cats in Colony: _____ Number of cats spayed/neutered: _____

Number of cats ear tipped: _____ Number of adoptions: _____

Number of Feeders: _____ Feeder Location(s):_____

_____

_____

Number of Traps: _____ Trap Location(s): _____

_____

_____

Signature: _____ **Date:** _____

TNR PERMIT NOTICE FORM
FERAL CAT FEEDER/TRAP

Dear Resident/Owner,

The City of Beverly Hills has been notified that a colony of feral cats exists in your neighborhood and a permit application has been filed to provide a feral cat feeder within 150 feet of your residence. On September 15, 2009, a Trap-Neuter-Return (TNR) Program was approved by the City Council as a humane method of reducing and controlling the population of feral cat colonies within the City of Beverly Hills. As required by the program, this notice provides a 10 day resident comment period for feeding devices and a 3 day resident comment period for trapping devices to be considered in approving the application filed for a feeding station located at:

_____

TNR PARTNER

Partner Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Number: (_____) _____ - _____ Email: _____

FERAL CAT CAREGIVER(S)

Name:	Contact Number:
_____	(_____) _____ - _____
_____	(_____) _____ - _____
_____	(_____) _____ - _____
_____	(_____) _____ - _____
_____	(_____) _____ - _____
_____	(_____) _____ - _____

All comments must be submitted to the City of Beverly Hills, Department of Community Development by the end of business day: _____. Anonymous comments will not be accepted.

Mail your comments to: **Attention: Community Preservation**
Community Development Department
455 N Rexford Dr, 1st Floor
Beverly Hills, Ca 90210

Email your comments with Subject: "Community Preservation" to buildingandsafety@beverlyhills.org.

Feral Cat Feeder FAQs

Is there a limit of time when feeding activity can occur?
Yes, feeding activity is limited to the hours of 6:00 a.m. through 8:00 p.m., or sunset, whichever is earlier.

Can food be left out over night for the cats to feed?
No, all food shall be removed every night by sunset or 8:00pm whichever is earlier.

Additional information can be found at www.beverlyhills.org/feralcats

FERAL CAT CAREGIVER
AFFIDAVIT AND AGREEMENT TO COMPLY WITH CITY OF BEVERLY HILLS FERAL CAT TRAP-NEUTER-RETURN PROGRAM REGULATIONS AND GUIDELINES

I, _____, hereby declare as follows:
(printed name)

1. I have received a copy of the *City of Beverly Hills Feral Cat Trap-Neuter-Return Program Regulations and Guidelines* (the "Regulations and Guidelines").

2. I verify that I have read and understand the Regulations and Guidelines.

3. I agree to comply with the Regulations and Guidelines and other applicable ordinances related to the care and feeding of feral cats.

4. I accept and agree to abide by all the standard conditions of approval set forth in the TNR Program Regulations and Guidelines and all other conditions of permit approval.

I declare under the penalty of perjury that the foregoing is true and correct.

Printed Name of Feral Cat Caregiver: _____

SIGNATURE OF FERAL CAT CAREGIVER: _____

EXECUTED ON: _____

Name of TNR Partner Representative: _____

SIGNATURE OFAUTHORIZED TNR PARTNER REPRESENTATIVE: _____

EXECUTED ON: _____

This affidavit shall be filed with the Community Preservation Division

455 N Rexford Dr, 1st Floor, Beverly Hills, Ca 90210

Community Preservation (310) 285 – 1119