

PILOT PROGRAM:

**ORDINANCE & PROTOCOLS
FOR THE MANAGEMENT OF FERAL CAT COLONIES
IN WILDLIFE-SENSITIVE AREAS
IN BURLINGTON COUNTY, NEW JERSEY**

July 2007

**A cooperative effort of the
NEW JERSEY FERAL CAT & WILDLIFE COALITION
Consisting of:**

Burlington County Feral Cat Initiative
Burlington County Health Department
In Defense of Animals
Neighborhood Cats
Animal Protection League of NJ (formerly NJARA)
New Jersey Audubon Society
The Humane Society of the United States

In consultation with:

New Jersey Department of Environmental Protection, Division of Fish & Wildlife,
Endangered & Non-game Species Program

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INTRODUCTION

A reduction in the numbers of feral cats is a common goal of both cat and wildlife advocates, but the growth of Trap-Neuter-Return in the United States has been slowed by the issue of predation.

Although a confrontation seemed inevitable when the New Jersey Audubon Society (NJAS) became aware of the activities of the Burlington County Feral Cat Initiative (BCCI), the outcome was very different. Dr. Gordon Stull, director of BCCI, and Eric Stiles, Vice President for Conservation and Stewardship, NJAS, decided to sit down, express their concerns, educate one another and bring others to the table to dialogue.

One of the group's first tasks was to create a code of conduct and mission statement. During our almost-monthly meetings over a two-year period, many individuals and organizations participated. The signatories to this document were sustained during the difficult phases of our work by our common goal and the trust and respect we had gained for one another.

Our document represents a pilot program that applies specifically to Burlington County, New Jersey. The Protocols as described in this document will be field tested in Burlington County, New Jersey, by the Burlington County Feral Cat Initiative working with the New Jersey Department of Environmental Protection, Division of Fish and Wildlife, Endangered and Nongame Species Program. This Pilot Program, which is expected to be completed in approximately 4 months, will give the Coalition an opportunity to test and evaluate the protocols. At the conclusion of the pilot period, the Coalition will discuss potential revisions as may be appropriate.

Although it is a living document that will be evaluated and revised, we are making it public now. We recognize that each community is unique, and, therefore, suggest that this document serve as a launching point for your discussions. We applaud your collaborative efforts to work for the common good of cats and wildlife in your community.

ORDINANCE

NEW JERSEY ORDINANCE # _____ AN ORDINANCE OF _____ MUNICIPALITY TO PERMIT THE MANAGED CARE OF FERAL CATS

WHEREAS, present goals of Trap, Neuter and Return (TNR) programs are to humanely and non-lethally reduce the number of feral cats, reduce feral cat predation and other adverse impact on wildlife, and benefit public health; and

WHEREAS, there are no governmental or privately operated programs in the Municipality of _____ (“Municipality”) to care for feral cats; and

WHEREAS, the population of feral cats has been increasing in the Municipality; and

WHEREAS, communities throughout the United States have found that current non-TNR practices for the control of feral cats have not been effective in reducing their numbers;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMITTEE OF THE TOWNSHIP OF _____, COUNTY OF BURLINGTON, STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. Definitions.

For the purpose of this Ordinance, the following terms shall have the meaning set forth in this Section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, words in the singular number include the plural, and words in the male gender include the female gender.

Caregiver means any person who provides food, water or shelter to or otherwise cares for a feral cat colony.

Companion cat as used in this ordinance means a cat who is currently socialized to humans.

Eartipping means straight-line cutting of the tip of the left ear of a cat while the cat is anesthetized.

Feral Cat means a cat who currently exists in a wild or untamed state.

Feral Cat Colony means a group of cats that congregates. Although not every cat in a Colony may be feral, any nonferal cats that routinely congregate with a colony shall be deemed to be a part of it.

Nuisance means disturbing the peace by (a) habitually or continually howling, crying or screaming, or (b) the habitual and significant destruction of property against the wishes of the owner of the property.

Suitable shelter means shelter that provides protection from rain, sun, and other elements and is adequate to protect the health of the cat.

TNR means Trap, Neuter and Return.

TNR Program means a program pursuant to which cats are trapped, neutered or spayed, vaccinated against rabies, eartipped and returned to the current location where they congregate in accordance with the Protocols attached hereto and incorporated by reference herein.

Section 2. Feral Cat Colonies.

2.1. Feral Cat Colonies shall be permitted and Caregivers shall be entitled to maintain them in accordance with the terms and conditions of this Ordinance.

2.2. Sponsorship of TNR Program. A single sponsoring organization (“Sponsor”) shall administer the TNR program.

2.3. Sponsor Requirements. It shall be the duty of the Sponsor to:

- a. Conduct a thorough review to determine if the Caregiver(s) has the capability to meet the requirements of Section 2.4;
- b. register Feral Cat Colonies as provided in Section 2.7;
- c. help to resolve any complaints over the conduct of a colony Caregiver or of cats within a colony;
- d. maintain records provided by colony Caregivers on the size and location of the colonies as well as the vaccination and spay/neuter records of cats in the Sponsor’s colonies;
- e. report annually to the Municipality on the following:
 - i. number of colonies in the Municipality;
 - ii. total number of cats in colonies;
 - iii. number of cats and kittens spayed and neutered pursuant to the TNR Program and
 - iv. number of cats and kittens placed in permanent homes;
- f. adhere to the Protocols incorporated by reference herein;

- g. use due consideration to comply with the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1, et seq. (“ENSCA”), with respect to species that are covered by the Protocols incorporated by reference herein. Compliance with the incorporated Protocols shall presumptively satisfy the due consideration obligation.

2.4. Feral Cat Caregiver requirements. Caregivers are responsible for the following:

- a. submitting the Feral Cat Colony for registration with the Sponsor;
- b. taking steps that are reasonably likely to result in the vaccination of the colony population for rabies and making reasonable efforts to update the vaccinations on cats that can be recaptured;
- c. taking steps that are reasonably likely to result in the spaying/neutering, by a licensed veterinarian, of at least ninety percent (90%) of the colony population. In facilitating the spaying/neutering of cats, Caregivers shall be presumed to have acted in good faith in concluding that cats routinely congregating within the colony are feral;
- d. providing the Sponsor with descriptions of each cat in the colony and copies of documents evidencing that the cats have been vaccinated and spayed/neutered;
- e. providing food, water and, if feasible, suitable shelter for colony cats;
- f. observing the colony cats at least twice per week and keeping a record of any illnesses or unusual behavior noticed in any colony cats;
- g. obtaining proper medical attention to any colony cat who appears to require it;
- h. obtaining the approval of the owner of any property, to which the Caregiver requires access to provide colony care;
- i. in the event that kittens are born to a colony cat, the Caregiver shall take reasonable steps likely to result in the removal of the kittens from the colony after they have been weaned, and the placement of the kittens in homes or foster homes for the purpose of subsequent permanent placement;
- j. Caregivers shall make reasonable efforts to find permanent inside homes for colony cats who exhibit the potential for acclimating to such a placement;

- k. reporting annually in writing to the Sponsor on the status of the colony, including data on the number and gender of all cats in the colony, the number of cats that died or otherwise ceased being a part of the colony during the year; the number of kittens born to colony cats and their disposition and the number of cats and kittens placed in permanent homes as companion cats.

2.5. Colony Cat requirements.

- a. The left ear of a colony cat who has been spayed or neutered and vaccinated shall be eartipped.
- b. An electronic animal identification device (EAID) shall be inserted into the cat by a veterinarian in accordance with professional medical standards. The Sponsor shall be the named contact for purposes of the EAID.

2.6. Disposition of Colony cats.

- a. An Animal Control Officer who has trapped a cat whose left ear has been tipped or who bears some other distinguishing mark indicating that the cat belongs to a Feral Cat Colony may scan the cat for an EAID. If an EAID is found, the Officer may choose to contact the Sponsor or other person responsible for the cat.
- b. Once contacted, the Sponsor shall be responsible for retrieving the cat from the ACO or, if the ACO has delivered the cat to a Shelter, the Sponsor shall retrieve the cat from the Shelter within seven (7) business days of notification or shall advise the Shelter if the Sponsor does not intend to retrieve the cat.

2.7 Registration of Feral Cat Colonies

- a. Sponsor shall register Feral Cat Colonies maintained by approved Caregivers in the manner set forth in this Section.
- b. Upon initial application of an approved Caregiver to register a colony, Sponsor shall comply with Section I, Paragraph A(1) of the Protocols. Following compliance with Section I, Paragraph A(1) of the Protocols, Sponsor may grant provisional registration to the proffered colony, entitling the Caregiver and colony to all benefits and protections set forth in this Ordinance.
- c. Within a reasonable period of time following provisional registration, Sponsor shall follow the required procedures as set forth in the Protocols with respect to the proffered colony. Upon completion, Sponsor may

grant full registration to the colony or shall revoke the provisional registration of the colony.

- d. Feral Cat colonies within the Municipality that are not registered by the Sponsor, either provisionally or fully, are not entitled to any benefits or protections set forth in this Ordinance.

Section 3. Ordinance Enforcement.

3.1. Nothing shall interfere with the Municipality's ability to:

- a. seize/remove a cat from a colony that is creating a nuisance as defined above if the Caregiver and Sponsor have failed to cure the nuisance within sixty (60) days of being advised in writing of its existence.
- b. seize/remove a Feral Cat Colony when the Caregiver regularly fails to comply with the requirements of section 2.4 if Sponsor has failed to correct the situation within sixty (60) days of being given notice in writing delineating the failure with specificity.

3.2. Notwithstanding section 3.1, the Municipality and Animal Control Officers are not subject to any notice requirements or time constraints when acting under the direction of the New Jersey Department of Environmental Protection to enforce provisions of the ENSCA, except as provided in the Protocols.

3.3. No provisions in this Ordinance are intended to interfere with the ability of ACOs to comply with N.J.S.A. 4:19-15.16 or other existing law.

Section 4. Grandfather Clause

4.1. Sections 2.3, 2.4, 2.5 and 2.7 shall not apply to Feral Cat Colonies submitted for registration prior to the adoption of this Ordinance.

PROTOCOLS

Preamble

- A. The members of the New Jersey Feral Cat & Wildlife Coalition, sharing the goals of non-lethally reducing feral cat populations and also protecting wildlife, are pleased to announce a municipal pilot program involving the Burlington County Feral Cat Initiative in order to determine the best ways to reach our stated shared goals. It is our sincere hope that this municipal pilot program will result in a model for protecting wildlife while at the same time effectively and non-lethally reducing feral cat populations, and that this Burlington County, New Jersey municipal model will further demonstrate that such collaborative efforts can and will work to achieve mutually beneficial ends.
- B. These Protocols for the Management of Feral Cat Colonies in Wildlife-Sensitive Areas in Burlington County, New Jersey (“Protocols”) are intended to be neutral on the legal issue of whether the practice of Trap-Neuter-Return (“TNR”) would or would not ever constitute a violation of the New Jersey Endangered and Nongame Species Conservation Act (N.J.S.A. 23:2A-1, et seq.)
- C. No provisions of the Ordinance to Permit the Managed Care of Feral Cats (“Ordinance”) or Protocols pre-empts federal or New Jersey state law.
- D. No provisions of the Ordinance or Protocols are intended to offer guidance on how to comply with the federal Endangered Species Act or Migratory Bird Treaty Act.

I. Feral Cat Colony Management in Critical Habitat for Endangered, Threatened, Rare and Special Concern Species Covered by the New Jersey Endangered and Nongame Species Conservation Act

A. Due Consideration – Consultation with Landscape Project’s I-Map

1. As the initial step in exercising due consideration to comply with the New Jersey Endangered and Nongame Species Conservation Act (“ENSCA”), the Sponsor of the TNR program (“Sponsor”) must consult the Landscape Project’s I-Map to determine whether the colony is located within one or more patches of critical habitat for an Endangered, Threatened, Rare or Special Concern species (“ETR”) ranked 2, 3, 4 or 5, or within a quarter mile buffer zone of any such patch. (*See Appendices A [general guidance document on I-Map] and B [specific guidance document on Landscape Project within I-Map].*)

B. Due Consideration – No Critical Habitat Involved

1. If, upon consultation of the Landscape Project’s I-Map, Sponsor determines that the colony proposed for full registration is not located in a patch for any ETR species ranked 2, 3, 4 or 5, or within a quarter mile buffer zone of any such patch, Sponsor may proceed to grant full registration to the colony. Notification or consultation with the Division of Fish & Wildlife Endangered & Non-game Species Program (“DFW ENSP”) is not required.
2. Sponsor shall print out and maintain a copy of the relevant I-Map page(s) to document the finding that the colony is not located in critical habitat for any ETR species.
3. With respect to any colonies which Sponsor finds are not located in critical habitat for any ETR species and which are then granted full registration, Sponsor shall perform the due consideration process described in these Protocols at least once a year. This is to ensure that new information entered into the I-Map about ETR species locations are taken into account.

C. Due Consideration – Critical Habitat Involved; Determining if Cat-vulnerable Species are Present

1. If the colony proposed for full registration is located within a relevant patch or buffer zone, Sponsor must determine whether the critical habitat in question contains a “cat-vulnerable” ETR species. Sponsor does this by consulting a list of the ETR species present in the relevant patch and cross-checking this list against a separate list of cat-vulnerable species compiled and periodically updated by DFW ENSP. DFW ENSP will provide an updated list to Sponsor annually. (*See Appendix C [list of designated cat-vulnerable ETR species] and Appendix D [interim procedure for identifying species of Special Concern in critical habitat].*)

D. Due Consideration – Critical Habitat Involved; No Cat-vulnerable Species are Present

1. If Sponsor determines there are no cat-vulnerable species present in the relevant patch or buffer zone, Sponsor may proceed to grant full registration to the colony. Notification or consultation with DFW ENSP is not required.
2. Sponsor shall print out and maintain the relevant I-Map page(s) and list(s) of ETR species to document that the colony is not located in critical habitat for any cat-vulnerable ETR species.
3. With respect to any colonies which Sponsor finds are not located in critical habitat for a cat-vulnerable ETR species and which are then granted full registration, Sponsor shall repeat the due consideration process described in these Protocols at least once a year. This is to ensure that new information entered into the I-Map about ETR locations are taken into account.

E. Due Consideration – Critical Habitat Involved; Cat-vulnerable Species Present; Non-TNR Option Pursued

1. **Notification required:** If an existing colony proposed for full registration is located in a cat-vulnerable ETR patch or within a quarter mile buffer zone, Sponsor must notify DFW ENSP of the presence of the colony, the link or patch identification number of the relevant patch, and Sponsor’s planned course of action. DFW ENSP shall be contacted at PO Box 400, Trenton, NJ, 08625-0400.
2. **Consultation not required:** Consultation with DFW ENSP (which is to be distinguished from notification) is not required if Sponsor of the TNR Program undertakes any of the following courses of action within a reasonable period of time of learning a colony proposed for full registration is located within a cat-vulnerable ETR patch or buffer zone:
 - a. Relocation of the colony. Sponsor has a duty to ensure the colony will not be relocated within another cat-vulnerable ETR patch or buffer zone.
 - b. Removal of the colony for any other purpose, including adoption, confinement in an off-site sanctuary, placement in an animal shelter, etc.
 - c. On-site confinement of the colony using an approved and properly installed confinement system that proves, in fact, to be effective. If on-site confinement is used, the required notification to DFW ENSP described in section III (E)(1) must include a description of the confinement system utilized. (*See Appendix E [list of approved on-site confinement systems].*)
3. **Disputing I-Map designation:** The I-map creates a “rebuttable” presumption that the patch in question is currently habitat for any listed cat-vulnerable ETR

species. If Sponsor seeks to dispute this presumption, Sponsor bears the burden of presenting adequate evidence to DFW ENSP that the relevant species are no longer present in the patch or the habitat is no longer suitable for that species. If Sponsor presents such evidence, a colony located within the disputed patch shall not be granted full registration until DFW ENSP has adequate time to evaluate the evidence and provide written concurrence that the I-Map's presumption has been rebutted.

F. Due Consideration – Critical Habitat Involved, Cat-vulnerable Species Present; TNR Option Pursued

1. **Consultation required:** If a colony proposed for full registration is located in a cat-vulnerable ETR patch or buffer zone, and Sponsor wants to pursue a TNR project, Sponsor must consult with DFW ENSP prior to granting full registration of the colony. DFW ENSP shall be contacted at PO Box 400, Trenton, NJ, 08625-0400.
2. **Identifying colony location:** In consulting with DFW ENSP, Sponsor will provide the link or identification number of the relevant I-Map patch.
3. **Colony management plan:** In consulting with DFW ENSP, Sponsor will submit a feral cat colony management plan. The plan should be as complete as possible and should detail how Sponsor intends to achieve the dual goals of reduction and eventual elimination of the colony, and of minimizing adverse impact on the relevant ETR species while the colony exists. The plan may include such elements as the number of cats, proximity of the cats to ETR species within the relevant patch or buffer zone, seasonality of the ETR species at risk, anticipated rate of attrition and length of project, efforts to prevent immigration of more cats into the colony, and use of best practices to deter predation (e.g., location of feeding stations, repellants, aversive conditioning, partial confinement).
4. **If colony management plan acceptable:** If the proposed TNR project and feral cat colony management plan is deemed acceptable by DFW ENSP, a letter will be issued stating such and setting forth any conditions. Upon receipt of the letter and compliance with any conditions set forth, Sponsor may grant full registration to the colony.
5. **If colony management plan unacceptable:** If the proposed TNR project is deemed unacceptable by DFW ENSP, Sponsor shall deny full registration to the colony and shall have a reasonable period of time to implement one of the non-TNR options set forth in Section I, Paragraph D(2). What will be considered “reasonable” will depend on such factors as the option chosen, the number of cats, the difficulty of trapping and any other relevant factors. The need to protect the ETR species in question will also be taken into account. If one of the non-TNR options set forth in Section I, Paragraph D(2) is not implemented within a reasonable period of time, Sponsor shall revoke registration of the colony.

6. **Trapping due to imminent danger:** If DFW ENSP considers the feral cat colony management plan unacceptable, deems the relevant ETR species to be in imminent danger and proceeds to trap and remove the cats, notification will be provided to Sponsor of the trapping efforts. The purpose of notification is to give Sponsor an opportunity to make arrangements for a non-lethal disposition. A reasonable attempt to notify Sponsor will be made before trapping begins. If Sponsor is not notified prior to trapping, notification will occur as soon thereafter as possible. Notification must take place after trapping at least within the mandatory holding period for cats in shelters as specified in N.J.S.A. 4:19-15.16. Factors indicating imminent danger include, but are not limited to, the season, number of cats, and proximity of the cats to the ETR species in question.
7. **DFW ENSP reserves the right to take actions that are not in conflict with the provisions of these Protocols:** If Sponsor chooses to maintain the colony without confinement in a cat-vulnerable ETR patch or quarter mile buffer zone, DFW ENSP retains all legal options for protecting the ETR species in question, including trapping and removing the cats and arranging for their impoundment in accordance with N.J.S.A. 4:19-15.16, subject to compliance with the provisions of these Protocols.

G. Other Duties by Sponsor of TNR Program

1. Sponsor will provide DFW ENSP and the Office of Animal Welfare with its current contact information and a list of municipalities in which it is administering a TNR program. DFW ENSP shall be contacted at PO Box 400, Trenton, NJ, 08625-0400. Office of Animal Welfare shall be contacted at New Jersey Department of Health and Senior Services, Office of Animal Welfare, PO Box 369, Trenton NJ 08625-0369.
2. Sponsor will provide its current contact information to the animal control agency of any Municipality in which it is administering a TNR program.
3. Sponsor will provide relevant data to the New Jersey Feral Cat & Wildlife Coalition for the purpose of evaluating and refining this Municipal Pilot Program. This data shall include, but not be limited to, (a) number of caregivers who opt out of registration under the Ordinance due to the requirements of these Protocols, (b) number of caregivers who opt in, (c) outcomes of evaluations performed and actions taken on colonies under the terms of these Protocols.

H. Other Duties of Division of Fish & Wildlife, Endangered & Nongame Species Program

1. **DFW ENSP discovers feral cat colony:** If DFW ENSP independently discovers a colony of feral cats and believes intervention is required, it will take reasonable steps to determine whether Sponsor is operating in that Municipality. If Sponsor

is active, then DFW ENSP will provide the opportunity for Sponsor to exercise due consideration as set forth in Section I, Paragraphs A through F.

2. **Changed circumstances:** If DFW ENSP determines that new developments or information require a change in the management plan of a fully registered colony, DFW ENSP will provide notification to Sponsor for the purpose of allowing Sponsor to exercise due consideration as set forth in Section I, Paragraphs A through F. An example of changed circumstances would be a sighting of an ETR species in previously unknown habitat.
3. **DFW ENSP trapping:** Whenever DFW ENSP decides to trap and remove feral cats and is aware that Sponsor is operating in that municipality, DFW ENSP will notify Sponsor of the trapping efforts. The purpose of notification is to give Sponsor an opportunity to make arrangements for a non-lethal disposition. A reasonable attempt to notify Sponsor will be made before trapping begins. If Sponsor is not notified prior to trapping, notification will occur as soon thereafter as possible. Notification must take place after trapping at least within the mandatory holding period for cats in shelters as specified in N.J.S.A. 4:19-15.16.

II. Feral Cat Colony Management in Wildlife-related Open Spaces & Parkland

- A. Locations Covered by Part II of Protocols:** Locations covered by Section II of these Protocols include (a) open spaces and parkland for which one of the primary management goals is wildlife-related, as identified on I-Map or otherwise, and (b) a quarter mile buffer zone around (a).
- B. Colonies Located in Wildlife-related Open Spaces and Parkland, Not Including Buffer Zone:** Prior to granting full registration of the colony, Sponsor must secure the permission of the land manager.
- C. Colonies Located in Buffer Zone of Wildlife-related Open Spaces and Parkland:** Prior to full registration of the colony, Sponsor must notify the land manager of the adjacent open space or parkland if a TNR project will be implemented.
1. If the land manager protests the TNR project, whether prior to its inception or while it is ongoing, a consultation aimed at resolving the conflict will be held between Sponsor, land manager and Municipality.
 2. Factors to be considered during the consultation should include:
 - a) Recognition of the value of open land accessible to the public for purposes of recreation and education, and
 - b) Recognition of the value of TNR in managing feral cat colonies.

III. Feral Cat Colony Management in Locations Not Covered by Sections I and II

A. Registration of Colonies by Sponsor: Sponsor may grant full registration to colonies in Section III locations and implement TNR projects without limitation.

B. Complaints about Colonies by Residents or Property Owners – Procedures: Sponsor will institute adequate and timely procedures by which any resident or property owner of a Section III location can file a complaint to the effect that a registered colony is adversely impacting wildlife at that location. Notification of the complaint should be received by both Sponsor and the municipality.

C. Resolution of Complaints – Procedures

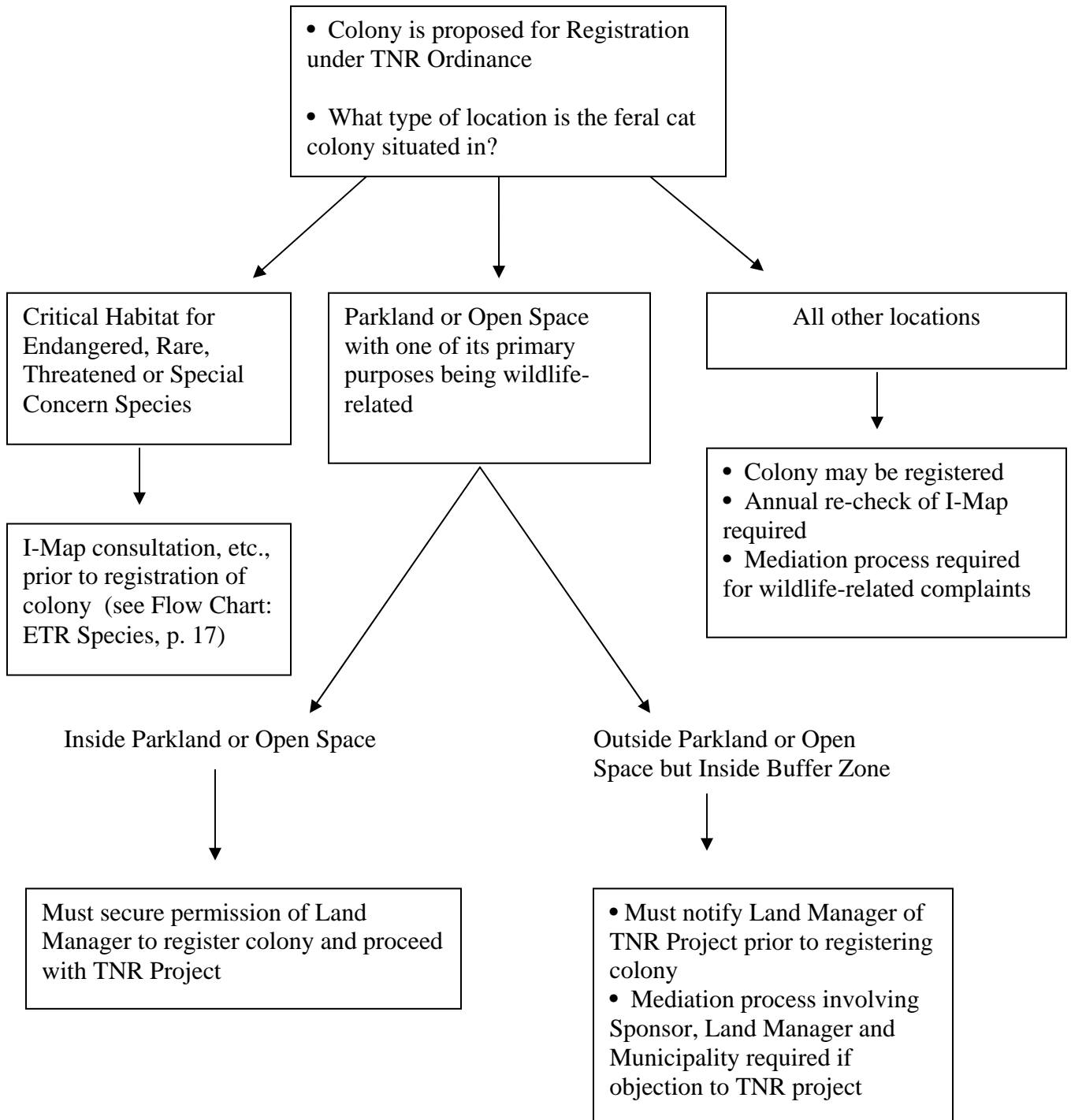
1. In a timely manner, Sponsor will consult with the affected resident or property owner if a good faith complaint is filed in an attempt to resolve the situation. The Municipality will be given the opportunity to participate in the consultation.
2. Factors to be considered during the consultation should include:
 - a) Recognition of the value of wildlife,
 - b) Recognition of the value of TNR in managing feral cat colonies,
 - c) The availability of devices and strategies to minimize wildlife predation by feral cats (*See Appendix F [cat deterrence systems].*)

IV. Exempted Feral Cat Colony Management

- A. **Sponsor's duty for exempted feral cat colonies:** On an annual basis, with respect to feral cat colonies exempted by 4.1 of the Ordinance, Sponsor shall consult with the Landscape Project using IMAP as described in Section I of these Protocols.

- B. **Exempted colonies located within cat-vulnerable critical habitat:** If it is determined that a colony exempted by 4.1 of the Ordinance is located within critical habitat for a cat-vulnerable ETR species or within a ¼ mile buffer zone, then Sponsor is encouraged to consult with DFW ENSP to determine whether reasonable steps can be taken to reduce adverse impacts to wildlife or mitigate for such. Alternatively, Sponsor may consider using one of the approaches set forth in Section I, Paragraph E(2).

FLOW CHART: TYPE OF LOCATION



FLOW CHART: ETR SPECIES

