

**TOWN OF \_\_\_\_\_ CIVIL ORDINANCE**

**Article I: PURPOSE; TITLE**

This ordinance is enacted to protect the welfare of animals in the Town of \_\_\_\_\_, under authority of 24 V.S.A. § 2291 (21), and 24 V.S.A. Ch. 59. This ordinance shall be known and may be cited as the “Animal Cruelty Ordinance.”

**Article II: DEFINITIONS**

Consistent with the provisions of 13 V.S.A. Chapter 8 regulating the humane and proper treatment of animals:

- A. **“Animal”** means all living sentient creatures, not human beings. 13 V.S.A. § 351 (1).
- B. **“Secretary”** shall mean the Secretary of Agriculture, Food and Markets. 13 V.S.A. § 351 (2).
- C. Pursuant to 13 V.S.A § 352, a person commits **“Cruelty to Animals”** if the person:
  - 1. intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner;
  - 2. overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats or mutilates an animal, exposes a poison with intent that it be taken by an animal;
  - 3. ties, tethers, or restrains an animal, either a pet or livestock, in a manner that is inhumane or is detrimental to its welfare. Livestock and poultry husbandry practices are exempted;
  - 4. deprives an animal which a person owns, possesses or acts as an agent for, of adequate food, water, shelter, rest or sanitation, or necessary medical attention, or transports an animal in overcrowded vehicles;
  - 5. owns, possesses, keeps or trains an animal engaged in an exhibition of fighting, or possesses, keeps or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;
  - 6. acts as judge or spectator at events of animal fighting or bets or wagers on the outcome of such fight;
  - 7. as poundkeeper; officer, agent of a humane society or as an owner or employee of an establishment for treatment, board or care of an animal, knowingly receives, sells, transfers or otherwise conveys an animal in his or her care for the purpose of research or vivisection;
  - 8. intentionally torments or harasses an animal owned or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
  - 9. knowingly sells, offers for sale, barter or displays living baby chicks, ducklings or other fowl which have been dyed, colored or otherwise treated so as to impart to them an artificial color, or fails to provide poultry with proper brooder facilities;

10. uses a live animal as bait or lure in a race, game or contest, or in training animals in a manner inconsistent with Part 4 of Title 10 or the rules adopted thereunder.

### **Article III. LIMITATIONS**

A. This ordinance shall not apply to:

1. activities regulated by the department of fish and wildlife pursuant to part 4 of Title 10 of the Vermont Statutes Annotated;
2. scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;
3. livestock and poultry husbandry practices as defined in section 351(13) of Title 13 of the Vermont Statutes Annotated for the raising, management and use of animals;
4. veterinary medical or surgical procedures; or
5. the killing of an animal as provided by sections 3809 and 3545 of Title 20 of the Vermont Statutes Annotated.

B. Enforcement involving the welfare of livestock and poultry shall not be attempted prior to consultation with the Secretary.

### **Article IV: CIVIL ENFORCEMENT**

This ordinance is a civil ordinance and enforcement shall be carried out in accordance with 24 V.S.A. §§ 1974a *et seq.* of the Vermont Statutes Annotated. An enforcement officer shall be guided by the Rules established by the Secretary regarding cruelty to animals and aggravated cruelty to animals.

### **Article V: ENFORCEMENT OFFICERS**

The selectboard may authorize any or all of the following humane officers to enforce this ordinance:

- A. any law enforcement officer as defined in 23 V.S.A. § 4 (11);
- B. auxiliary state police officers;
- C. deputy game wardens;
- D. humane society officers, employees or agents;
- E. local board of health officers or agents; or
- F. any officer authorized to serve criminal process.

### **Article VI. PENALTIES**

A. A person found in violation of cruelty to animals shall be subject to the following penalties:

1. 1<sup>st</sup> offense: fines not to exceed \$\_\_\_\_\_ per offense plus reasonable animal care costs;
2. 2<sup>nd</sup> offense: fines not to exceed \$\_\_\_\_\_ per offense plus reasonable animal care costs;
3. 3<sup>rd</sup> and subsequent offenses: impoundment of the animal(s), fines not to exceed \$\_\_\_\_\_ per offense plus animal care costs, and the town may seek injunctive relief in the Superior

Court in the county in which the town is located, including but not limited to ordering the violation to cease.

**Article VII: REPEAL OF INCONSISTENT PROVISIONS**

All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**Article VIII: SEVERABILITY**

This ordinance and its various parts, sentences, sections, and clauses are hereby declared to be severable. If any part, sentence, section or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

**Article IX: EFFECTIVE DATE**

This ordinance shall become effective 60 days after its adoption by the selectboard. If a petition is filed under 24 V.S.A. §1973, that statute shall govern the taking effect of this ordinance.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SIGNATURES of SELECTBOARD:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# **VLCT Municipal Assistance Center**

## **Model Animal Cruelty Ordinance**

### **Editorial Notes**

- I. Municipal Authority.** Municipal authority to regulate and enforce against acts of animal cruelty is codified at 24 V.S.A. § 2291 (21). This is enabling legislation that allows municipalities to regulate as a civil offense cruelty to animals. It was enacted by the Legislature in 2001. This new law was formed, and is to a large degree constrained, by existing criminal law relating to the humane care and proper treatment of animals. The laws regulating the humane care and treatment of animals can be found in 13 V.S.A. §§ 351-400.
- II. Penalties.** Criminal penalties for cruelty to animals are defined in 13 V.S.A. § 353. This area of the law also establishes a number of definitions involving the regulation of cruelty to animals. Where the state has established a definition, it is not legal to deviate from that definition. Definitions used in the VLCT model are consistent with the definitions found in 13 V.S.A. § 351.

Local officials should also be aware that while enforcement of a municipal civil ordinance falls under the jurisdiction of the Vermont Judicial Bureau, penalties that escalate beyond \$500 must be pursued in Superior Court. 24 V.S.A. § 1974a (b). Municipalities may want to pursue more severe penalties beyond fines, such as community service and impoundment of a violator's other animals. However, the Judicial Bureau does not have the legal authority to order a violator to do something, such as perform community service or turn over his or her animals. This is called "injunctive relief," and in Vermont, only the Superior Court has this power. The exception to this rule is that the Judicial Bureau can "order that a civil ordinance violation cease." 24 V.S.A. § 1974a (c). Therefore, when penalties exceed \$500, or when the municipality desires additional relief, the case must be brought in Superior Court. 24 V.S.A. § 1974a (b).

- III. Standards.** Many of the standards established by Title 13 also refer to practices and rules established by the Secretary of the Agency of Agriculture. However, the Agency of Agriculture has not developed any such rules. Rather, the language in the statute is intended to provide a vehicle for the Agency to include best agricultural practices in the definition of animal cruelty as is necessary.

- IV. Changes to the Ordinance.** While it is not necessary to adopt this model ordinance verbatim, if altered, all provisions must be consistent with state law. If you have questions about proposed changes and compliance with state law, be sure to consulting with your town attorney or call the VLCT Municipal Assistance Center for guidance prior to adoption of the ordinance.