

## **CAN TOWNS REGULATE DOMESTIC ANIMALS?**

Yes, but not through zoning. “A bylaw under this chapter shall not regulate accepted agricultural ... practices, including the construction of farm structures, as those practices are defined by the secretary of agriculture, food and markets ...” 24 V.S.A. § 4413(d). But agricultural practices are not only a land use issue. They’re becoming more and more a quality of life issue as well.

Whether it is due to a rise in sprawl, the demand for local products, or simply aspirations for a healthier and more sustainable lifestyle accomplished by growing and raising the foods we eat ourselves, the spatial separation between where we live and where we grow our food is diminishing. As people get closer to their produce and the domestic animals used to support them, so, too – by obvious association – do their neighbors. This trend can be particularly fractious and intrusive when it comes to the raising and management of domestic animals. Domestic animals are defined under Vermont law as “cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo. The term shall include cultured trout propagated by commercial trout farms.” 6 V.S.A. § 1151(2).

Zoning, however, isn’t the only regulatory tool municipalities have at their disposal to address the interactions between man and beast. Other possible mechanisms include regulating the noise and odor generated by these animals via enactment of a noise or animal control ordinance pursuant to a town’s nuisance authority [24 V.S.A. § 2291(14)], and regulating the potential detrimental public health affects of these practices by enacting a public health ordinance pursuant to a town’s authority to “compel the cleaning or repair of any premises which in the judgment of the legislative body is dangerous to the health or safety of the public.” 24 V.S.A. § 2291(13).

Of course, occasionally the best response to a problem is to do nothing at all. Government can’t be all things to all people and sometimes a dispute between neighbors is simply that. Regardless of the presence of an ordinance, these individuals could always opt to assert their own rights by filing a private nuisance suit in superior court.

*Garrett Baxter, Staff Attorney, VLCT Municipal Assistance Center*

**VLCT News, January 2010**