
Coates' Canons Blog: New Limitation on Animal Control Ordinances

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Recently enacted legislation restricts local government authority to adopt ordinances that “regulate standards of care for farm animals.” S.L. 2015-192. This change has implications for existing animal-related ordinances, specifically those related to animal cruelty and exotic animals. Local governments will want to review their animal ordinances and enforcement practices to ensure their programs comply with this new limitation. This post summarizes the new law and explores how this change intersects with existing state and local animal laws in these two areas.

Summary of New Legislation

S.L. 2015-192 enacts two nearly identical new statutes – G.S. 153A-145.4 for counties and G.S. 160A-203.1 for municipalities. As mentioned above, they prohibit local ordinances that regulate “standards of care” for “farm animals.” The term “standards of care” is defined in the new law to include:

- The construction, repair, or improvement of farm animal shelter or housing,
- Restrictions on the types of feed or medicines that may be administered to farm animals, and
- Exercise and social interaction requirements.

The exclusive list of farm animals subject to this limitation is: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry.

For counties, the restriction applies to *any* ordinance governing poultry. For cities, however, the restriction applies *only* to “poultry flocks of greater than 20 birds.” This variation allows municipalities to continue to adopt ordinances related to the smaller “backyard chicken” trend.

Also, because the new law is limited to ordinances governing “standards of care,” it likely does not have any impact on the many municipal ordinances that prohibit roosters (or other types of animals) within the jurisdiction. Local governments can likely continue to rely on their general police power authority to regulate roosters and other potential nuisances they identify. G.S. 153A-121; G.S. 160-174.

Animal Cruelty

Because the new law relates to “standards of care,” it overlaps with laws that govern cruelty or abuse of animals. For example, State and local officials often rely on cruelty or abuse laws when animals have been deprived of adequate food, water, or shelter, or are kept in unsanitary conditions.

Local governments have long had specific authority to adopt ordinances governing the abuse of animals. G.S. 153A-127; G.S. 160A-182. They also often rely on their general police power as authority for ordinances focused on animal welfare issues. For examples, see ordinances from Catawba County, Asheville, and Southport.

Some of these local cruelty laws define the term “animal” broadly enough to include the types of farm animals listed in the new legislation. With this new law in place, local animal control officials should not enforce those ordinances if the violation involves “standards of care” for farm animals. The new law does not preempt *all* local animal cruelty laws governing farm animals. Therefore, if a local government elects to revise its ordinance, it can tailor an exception that responds to this new, relatively narrow limitation.

It is important to note that this new law does not impact existing *state* law governing animal cruelty. State and local officials will still be able to pursue a civil cruelty action (G.S. Chapter 19A, Article 1) and enforce the criminal cruelty laws in some cases (G.S. Chapter 14, Article 47) to address animal care situations that rise to the level of cruelty. Both bodies of law have been used to address issues related to standards of care such as intentional starvation (e.g., *State v. Coble*, 163 N.C. App. 335 (2004)) and torment based on animals being kept in extremely unsanitary conditions (e.g., *State v. Mauer*, 202 N.C. App. 546 (2010)).

The state cruelty laws, both criminal and civil, define the term “animal” broadly enough to encompass farm animals, but there are several important exceptions to the law that limit the overall scope. For example there are exceptions for *lawful* activities conducted

- for purposes of production of livestock, poultry, or aquatic species; and
- for the primary purpose of providing food for human or animal consumption

There is also an exception that applies to the physical alteration of livestock or poultry for the purpose of conforming with breed or show standards.

While these exceptions certainly limit the scope of the state cruelty laws for farm animals, local governments may still be able to rely on them in some circumstances to address concerns related to standards of care. For example, if an owner or possessor of a farm animal “willfully and without justifiable excuse” abandons an animal, the person could possibly be charged with a Class 2 misdemeanor (G.S. 14-361.1).

Exotic Animals

Many local governments have ordinances addressing exotic or dangerous animals. They rely on the general police power for authority as well as specific authority to “regulate, restrict, or prohibit the possession or harboring of animals which are dangerous to persons or property.” G.S. 153A-131; G.S. 160A-187. Some prohibit ownership while others allow ownership, subject to restrictions that may include requirements that could be considered “standards of care.” For example, an ordinance may address the housing requirements for the animals.

The definitions of “exotic animals” in some of these ordinances may capture one or more of the “farm animals” identified in the new legislation, such as alpacas and pikas (a type of lagomorph not indigenous to North Carolina). Local governments should review their definitions and policies to ensure that they reflect the new limitations on local authority.

Unlike the cruelty laws, there is not a comprehensive body of state law addressing exotic animals to take into consideration. A different bill introduced this session (H 554) addresses “dangerous wild animals.” It is possible the General Assembly will take action on the bill this year or next, but the current draft is limited to certain types of animals. It would not, for example, apply to the dangerous, wild, and ferocious pika.



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