

Guidelines for Review of Local Laws Affecting the Control of Farm Animals

- Section 305-a of the Agriculture and Markets Law (AML) protects the on-farm production, preparation and marketing of livestock from unreasonable local restrictions. AML §301(2)(e) of the AML defines livestock and livestock products to include, but not be limited to, cattle; sheep; hogs; goats; horses; poultry; ratites, such as ostriches, emus, rheas, and kiwis; farmed deer; farmed buffalo; fur bearing animals; wool bearing animals, such as alpacas and llamas, milk; eggs and furs.
- Generally farmers are responsible for the care, safety and confinement of livestock in their charge. Farm operations must provide adequate fencing and gates to confine livestock in a safe and reasonable manner. The public needs to be protected from livestock that may cause bodily harm and/or property damage if the animals venture off the farm. Therefore, local animal control laws that require livestock to be confined and not “run at large” without restraint, confinement or supervision, are reasonable and help to protect public health and safety.
- Local animal control laws usually include restrictions on dogs, which may be problematic for farmers. Although dogs are not included in the definition of livestock, laws that affect dogs may be unreasonably restrictive since farmers often use working dogs to herd livestock and to protect livestock and/or crops. For example, guard dogs are commonly used to protect more vulnerable animals, such as sheep, from feral dogs, coyotes, and other wild animals. These guard dogs usually bark when they sense a threat to their flock. In other instances, farmers use dogs to keep deer and geese away from their crops. The use of working dogs on the farm is a practice that contributes to the production, preparation, and marketing of livestock and is therefore protected from unreasonable local restrictions pursuant to AML §305-a. Therefore, local laws that restrict the number of dogs on a property, require that all dogs be leashed, or limit the noise made from a dog may be unreasonably restrictive if they affect a farmer’s ability to use working dogs.
- There are several State laws that contain provisions relating to the maintenance of fences and the control of livestock. Article 18 of the Town Law (Fences, Strays, and Pounds), identifies the responsibility of a landowner and adjoining owners of land to construct and maintain fences in certain cases, and includes provisions relating to liens upon and impounding of strays. AML §95 states that bulls, stallions, bucks, and boars of a specified age shall not be allowed to run at large and/or be unconfined. Section 52 of the Railroad Law has provisions concerning fences, farm crossings, and cattle guards in relation to railroad crossings and rights-of-way.