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AI 84393 : Selectboard responsibility for runaway horses**2**

Legal Question (Legal Inquiry) Completed Follow Up PRIVATE

Member Info

Member: Valerie Capels

Date Submitted: 2/12/2024

Relationship(s): Contact-BSURV, Contact-CSURV, Contact-FMP, Contact-HLTH-P, Contact-WC-CLM, VTCMA, WLG, Town Administrator, Town Service Officer, Emerg Mgmt Coord

Requested Due Date: N/A

Topic: AnCON

Assigned To: MAC_LEGAL

Last Updated: 2/15/2024

Organization Info

Organization: Bristol, Town of- 500172 - FULL

VERB Member: No

PACIF Member: Yes

Town Manager Form of Government: No

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This Action Item has been closed. If you need to revisit this request, please create a new Action Item and reference this Action Item's number.

Messages

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Carl Andeer - Staff Attorney II

🕒 1 minute ago

Hi Valerie,

In short, the person can probably bring a civil lawsuit to recoup damages to their property. The town doesn't have any ordinance regarding domestic animals then there's not much the town can do, except use the state laws as described below:

Concerning regulating domestic animals, there are provisions of law that are either enabling or self-executing. A self-executing statute confers upon towns the immediate authority to act without first adopting an ordinance. In contrast, a statute granting enabling authority means that towns must first adopt an ordinance pursuant to 24 V.S.A. §§ 1972 et seq. before it can exercise its regulatory authority.

For example, towns may regulate domestic animals pursuant to their authority to regulate nuisances under 24 V.S.A. § 2291(14). This law says: "(f)or the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers: "... (14) (t)o define what constitutes a public nuisance, and to provide procedures and take action for its abatement or removal as the public health, safety, or welfare may require." Using this authority, towns can adopt ordinances regulating domestic animals by declaring their running-at-large and/or damaging others' property as a public nuisance and penalize those violators accordingly.

Without an ordinance, towns are left to address these matters with the existing, self-executing provisions of State law, which are in our opinion woefully outdated and inadequate, and/or leaving these matters as personal disputes between private landowners.

For example, towns can fine individuals under the current self-executing state laws for the various violations of horses, cows, bulls, pigs, etc. via chapter 191 of Title 20, found here: <https://legislature.vermont.gov/statutes/fullchapter/20/191>. This chapter lists various state laws regarding the running at large and the damage caused by stallions, rams, chickens, cows and other domestic animals. Again, towns can enforce these various statutes whether or not they've adopted an ordinance. In such a situation a town would typically (though it's not necessary) first write a letter to the owner of the offending animal with hopes that they correct its behavior, but if it actually wanted to enforce any of the Chapter 191 statutes or recover the fines issued pursuant to them, it would have to bring a lawsuit in the civil division of the superior court.

Unfortunately, the fines aren't high enough to discourage violations and would most assuredly not cover the costs associated with retaining the services of the town attorney for the effort.

Relatedly, there is a private right of action that property owners can pursue for most damages suffered to their property from domestic animals. While it's assuredly less relied upon in more populated and less agrarian regions of the State, some still find 20 V.S.A. § 3411 to be a useful and realistic tool to deter trespassing domestic animals. This particular provision of law gives individuals the right to impound a "beast" found in his or her enclosure doing damage. This is a law of general applicability - meaning that it applies to anyone, not just the town. References to the term poundkeeper are merely to whomever (public or private) impounds the animal. If a town does not have a pound for agricultural animals, a person wishing to impound a beast may use his barn or some other enclosure for that purpose, notifying the owner of such beast where the same is impounded. 20 V.S.A. § 3383. This self-remedy does impose certain rights and obligations upon the impounder (see 20 V.S.A. §§ 3411-3423) including directing them to inform the owner of the domestic animal that it has been impounded; what notification to provide when the owner is not known; how damage to the impounder's property is assessed; that unpaid damages may be recovered through sale of the domestic animal; and treatment of excess proceeds.

Valerie Capels - Town Administrator

🕒 3 days ago

Hi,

A citizen has asked that the Selectboard do something about his neighbor's horses that continue to escape their inadequately fenced enclosure and trample onto his property, rile his horses, and cause other disturbances. He is concerned about their safety, that of his horses, and the damage they cause. The Town has a Dog Ordinance but not an Animal Control Ordinance. This is also located outside of the Town's Police District. What is the Selectboard's authority and responsibility in this case?

Thank you,

--Valerie, Bristol Town Administrator

📄 Related Documents

Notifications