

## Title 3. Health and Public Safety - Chapter 304

### DOMESTIC ANIMALS

#### Kátseʔna Olihwaʔke

#### *matters concerning the pet animals*

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#### **304.1. Purpose and Policy**

304.1-1. *Purpose.* The purpose of this law is to:

- (a) protect the health, safety, and welfare of the community by requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) set minimum standards for the treatment of animals;
- (c) prohibit certain species of animals from being brought onto the Reservation;
- (d) regulate the keeping of livestock on lots zoned residential within the Reservation; and
- (e) establish consequences for damages caused by domestic animals.

304.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the community by:

- (a) requiring certain basic measures to prevent the spread of disease carried by domestic animals;
- (b) establishing requirements for licensing domestic animals, and
- (c) regulating the types of animals may be kept as domestic animals.

#### **304.2. Adoption, Amendment, Repeal**

304.2-1. This law was adopted by Oneida Business Committee by resolution BC-03-13-96-B and amended by resolutions BC-06-22-11-G and BC-06-28-17-B.

304.2-2. This law may be amended or repealed by the Oneida Business Committee and/or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

304.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity does not affect other provisions of this law which are considered to have legal force without the invalid portions.

304.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

304.2-5. This law is adopted under the authority of the Constitution of the Oneida Nation.

#### **304.3. Definitions**

304.3-1. This section governs the definitions of words and phrases used within this law. All words not defined herein are to be used in their ordinary and everyday sense.

(a) “District Quarantine” means a rabid or otherwise diseased Domestic Animal is suspected or known to be within a discernible area and all such animals reasonably suspected of being infected are subject to enforced isolation for a period of time to limit or prevent the spread of disease or infection and during which time said animals are tested for diseases, including rabies.

(b) “Domestic animals” means dogs, cats, ferrets, rabbits, guinea pigs, turtles, birds, pigeons, hamsters, non-venomous reptiles, amphibians, and arachnids, and all other animals commonly owned as household pets, provided that domestic animals specifically excludes exotic animals as identified in section 304.8-2.

- (c) “Fine” means a monetary punishment issued to a person violating this law and/or the rules created pursuant to this law.
- (d) “Judiciary” means the judicial system that was established by Oneida General Tribal Council resolution GTC-01-07-13-B to administer the judicial authorities and responsibilities of the Nation.
- (d) “Livestock” means any equine (i.e. horse, donkey, etc.), bovine (i.e. cow, steer, heifer, etc.), sheep, goat, pig, or domestic fowl, including game fowl raised in captivity.
- (e) “Nation” means the Oneida Nation.
- (f) “Owner” means any person who owns, harbors, keeps, controls or acts as a caretaker for an animal. Absent evidence of alternative adult ownership, this law presumes that domestic animals are owned by the adult homeowner or renter.
- (g) “Penalty” means a punishment, other than a fine, imposed on a person violating this law and/or the rules created pursuant to this law and may include, but is not limited to, the confiscation of wildlife with return of the same at the discretion of the Judiciary and restitution.
- (h) “Reservation” means all the property within the exterior boundaries of the Reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida 7 Stat. 566, and any lands added thereto pursuant to federal law.
- (i) “Quarantine” means the act of keeping an animal in enforced isolation for a period of time to limit or prevent the spread of disease or infection and during which time said animal is tested for diseases, including rabies.
- (j) “Tribal member” means an enrolled member of the Nation.

#### **304.4. Jurisdiction**

304.4-1. *Personal Jurisdiction.* This law applies to:

- (a) All Tribal members; the Nation’s entities and corporations; and members of other federally-recognized tribes.
- (b) Individuals and businesses leasing, occupying or otherwise using fee land owned by the Nation or by individual Tribal members; and/or lands held in trust on behalf of the Nation or individual Tribal members.
- (c) Individuals who have consented to the jurisdiction of the Nation or as otherwise consistent with federal law. For the purposes of this subsection, an individual shall be considered to have consented to the jurisdiction of the Nation:
  - (1) By entering into a consensual relationship with the Nation, or with the Nation’s entities, corporations, or Tribal members, including but not limited to contracts or other agreements; or
  - (2) By other facts which manifest an intent to consent to the authority of the Nation, including failure to raise an objection to the exercise of personal jurisdiction in a timely manner.

304.4-2. *Territorial Jurisdiction.* This law extends within the Reservation to all land owned by the Nation and individual Tribal member trust and/or fee land.

#### **304.5. Authority**

304.5-1. *Oneida Police Department.* Oneida Police Officers and Conservation Wardens shall:

- (a) investigate complaints involving domestic animals;
- (b) enforce the provisions of this law through appropriate means, including but not

limited to:

(1) seizing any animal:

- (A) taken, employed, used, or possessed in violation of this law; and/or
- (B) mistreated, rabid or otherwise in danger or dangerous.

(2) issuing citations consistent with the fine and penalty developed according to section 304.5-2.

(3) using force, up to and including lethal force, to stop an immediate threat to public safety caused by an animal. Where lethal force is used, such execution shall be conducted in as humane manner as possible and, to the extent feasible, avoids damage to the animal's head.

304.5-2. *General Rulemaking Authority.* The Environmental Health and Safety Division and the Environmental Resource Board are hereby delegated joint rulemaking authority to establish and maintain:

- (a) A fine and penalty schedule;
- (b) A licensing fee schedule; and
- (c) Other rules as necessary to enforce and implement this law.

304.5-3. *Disease Investigation and Quarantine Rulemaking Authority.* The Environmental Health and Safety Division, the Emergency Management Coordinator and Comprehensive Health Division are hereby delegated joint rulemaking authority to establish rules related to disease investigations and quarantines.

304.5-4. *Issuance of Licenses.* The Environmental Health and Safety Division shall make all decisions related to the issuance of a license in accordance with this law.

### **304.6. Requirements for Dogs and Cats**

304.6-1. *License Required.* An annual license is required to keep any dog or cat over five (5) months of age.

(a) The license year commences on January 1<sup>st</sup> and ends December 31<sup>st</sup>. To be eligible for a license, the owner shall provide the licensing fee and proof of current rabies vaccination.

(b) The owner shall securely attach the tag to the animal's collar and shall require the animal wear the collar at all times, provided that this requirement does not apply to dogs or cats:

- (1) hunting or actively involved in herding or controlling livestock if the animal is under control of its owner;
- (2) within the owner's residence and/or securely confined in a fenced area; and/or
- (3) being shown during a competition.

304.6-2. *Rabies Vaccinations Required.* Rabies vaccination is required for any dog or cat five (5) months of age or older.

304.6-3. *District Quarantine.* A district quarantine may be initiated in accordance with the quarantine rules and may be initiated by staff designated by the Environmental Health and Safety Division, an Oneida Police Officer, an Oneida Conservation Warden and/or a Public Health Officer.

(a) If an area is subject to a District Quarantine for rabies, all dogs and cats within the district shall be kept securely confined, tied, leashed or muzzled. Any dog or cat not confined, tied, leashed or muzzled is a public nuisance and may be impounded. All Oneida Police Officers and Oneida Conservation Wardens shall cooperate in the

enforcement of the Quarantine.

(b) An animal that is immunized against rabies as evidenced by a valid certificate of rabies vaccination or other evidence is exempt from the district quarantine provisions of this section.

304.6-4. *Dogs and Cats Running at Large.* It is unlawful for any dog or cat owner to permit the animal to be at any place except upon the premises of the owner, unless it is crated, penned, or on a leash under the control of a person physically able to control the animal. In addition, a nuisance dog or cat may be picked up by Oneida Police Officers or Oneida Conservation Wardens. For the purposes of this law, a nuisance dog or cat is one whose actions result in two (2) or more verified disturbances due to excessive barking and/or running loose or one (1) or more verified disturbance due to threatening behavior by a loose dog or cat.

(a) Stray dogs and cats shall be referred to the Oneida Police Department or Oneida Conservation Department.

(b) Whenever any Oneida Police Officer, Oneida Conservation Warden, or other person designated by the Chief of Police finds any dog or cat running at large, the officer/warden shall, if possible, pick up, and impound such animal.

(c) Whenever any impounded animal bears an identification mark, such as a collar with identification tags or license tag, the owner shall be notified as soon as reasonably possible.

304.6-5. *Limit on Number of Dogs and Cats.* Except as provided in (a), no more than three (3) dogs or three (3) cats; and a total of no more than five (5) dogs and cats combined; may be kept or possessed by a single residential household. For the purposes of this law, each residential lot, excluding residential lots designed as multi-family lots, constitutes a separate residential household. In cases of multi-family lots, each family unit within the lot constitutes a separate household.

(a) *Exception.* The limit on the number of dogs and cats a person may keep or possess does not apply to those persons who:

(1) are eligible for any grandfather provisions included this law's adopting resolution(s);

(2) keep or possess a litter of pups or kittens or a portion of a litter for a period not exceeding five (5) months from birth; and/or

(3) reside on a farm.

### **304.7. Treatment of Animals**

304.7-1. *Food and Water.* No owner may refuse or neglect to provide an animal with a daily supply of food and water sufficient to maintain the animal in good health.

304.7-2. *Shelter.*

(a) *Minimum indoor standards of shelter:*

(1) The ambient temperature shall be compatible with the health of the animal.

(2) Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.

(b) *Minimum outdoor standards of shelter:*

(1) *Shelter from Sunlight.* When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. "Caged" does not include farm fencing used to confine farm animals.

(2) Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.

(3) If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a weather appropriate shelter of suitable size to accommodate the dog shall be provided.

(c) *Space Standards.* Minimum space requirements for both indoor and outdoor enclosures:

(1) The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

(2) Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns. Specifically, dog kennels shall meet the following space requirements where, if there are multiple dogs in the same kennel, the base kennel space requirement is based on the size of the largest dog and the additional kennel space requirements are based on the size of each additional dog kept in the kennel:

DOG SIZE (LBS)	REQUIRED BASE KENNEL SPACE	REQUIRED ADDITIONAL KENNEL SPACE PER ADDITIONAL DOG
1-35 lbs	80 Sq. Ft.	12 Sq. Ft.
36-75 lbs	100 Sq. Ft.	18 Sq. Ft.
76 lbs or more	120 Sq. Ft.	24 Sq. Ft.

(d) *Sanitation Standards.* Minimum standards of sanitation for both indoor and outdoor enclosures require excreta to be removed within twenty-four (24) hours of its deposit. In the case of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices.

304.7-3. *Mistreatment of Animals.* No person may treat any animal in a manner which causes harm, injury or death. This section does not apply to:

(a) normal and accepted veterinary and/or care practices; or

(b) teaching, research or experimentation conducted at a facility regulated under federal or applicable state law.

304.7-4. *Criminal Reporting.* In addition to taking civil action under this law, any employee of the Nation shall report animal mistreatment to the Oneida Police Department.

### **304.8. Prohibited Animals**

304.8-1. *Prohibited Animals.* No person may bring into, keep, harbor, maintain, offer for sale or barter, act as a custodian, have custody or control of, or release to the wild on the Reservation an exotic animal.

304.8-2. *Exotic Animals.* The following orders and families, whether bred in the wild or in captivity, and any or all hybrids are defined as "Exotic Animals". The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

(a) Class Mammalia.

(1) Order Chiroptera (Any bat species)

(2) Order Artiodactyla, (Hippopotamuses, giraffes, camels, deer) Excluding

domestic cattle, swine, sheep, goats, alpaca, and llama.

(3) Order Carnivora.

(A) Family Felidae. (Lions, tigers, cougars, leopards, ocelots, servals)  
Excluding domestic cats.

(B) Family Canidae (Wolves, wolf hybrids, coyotes, coyote hybrids, foxes,  
jackals) Excluding domestic dogs.

(C) Family Ursidae. (All bears)

(D) Family Mustelidae. (Weasels, skunks, martins, minks) Excluding  
ferrets.

(E) Family Procyonidae. (Raccoons, coatis)

(F) Family Hyaenidae. (Hyenas)

(G) Family Viverridae (Civets, genets, mongooses)

(4) Order Edentata. (Anteaters, armadillos, sloths)

(5) Order Marsupialia. (Opossums, kangaroos, wallabies, sugar gliders)

(6) Order Perissodactyla. (Rhinoceroses, tapirs) Excluding horses, goats, and  
mules.

(7) Order Primates. (Lemurs, monkeys, chimpanzees, gorillas)

(8) Order Proboscidea. (Elephants)

(9) Order Rodentia. (Squirrels, beavers, porcupines, prairie dogs) Excluding  
guinea pigs, rats, mice, gerbils, and hamsters.

(b) Class Reptilia.

(1) Order Squamata.

(A) Family Helodermatidae. (Gila Monsters and Mexican beaded lizards)

(B) Family Varanidae. (Any monitor which will normally grow over two  
feet in length)

(C) Family Iguanidae. (Only green iguanas and rock iguanas, all others  
allowed)

(D) Family Boidae. (All species whose adult length may exceed eight (8)  
feet)

(E) Family Colubridae. (Boomsnangs and African twig snakes)

(F) Family Elapidae. (Coral snakes, cobras, mambas)

(G) Family Natricidae. (Only keelback snakes, all others allowed)

(H) Family Viperidae. (Copperheads, cottonmouths, rattlesnakes)

(2) Order Crocodylia. (Crocodiles, alligators, caimans, gavials)

(c) Class Aves.

(1) Order Falconiformes. (Eagles, hawks, vultures)

(2) Order Rheiformes. (Rheas)

(3) Order Struthioniformes. (Ostriches)

(4) Order Casuariiformes. (Cassowaries and emus)

(5) Order Strigiformes. (Owls)

(d) Class Arachnida.

(1) Order Scorpiones, Family Buthidae.

(A) Arabian fat-tailed scorpion – *Androctonus crassicauda*

(B) Arizona centruroides scorpion – *Centruroides exilicauda*

(C) Death stalker – *Leiurus quinquestriatus*

(D) Egyptian yellow scorpion – *Androctonus Amoreuxi*

- (E) Israeli black scorpion – *Hottentotta judaicus*
  - (F) S.A. giant fat-tailed scorpion – *Parabuthus transvaalicus*
  - (G) Sinai desert scorpion – *Androctonus bicolor*
  - (H) Yellow desert scorpion – *Androctonus Australia*
  - (2) Order Araneae, Family Theridadae.
    - (A) Argentina red widow spider – *Latrodectus coralinus*
    - (B) Brown widow spider – *Latrodectus geometricus*
    - (C) Red-black widow – *Lactrodectus hasselti*
    - (D) Red widow spider – *Lactrodectus bishop*
    - (E) Southern black widow spider – *Lactrodectus mactans*
    - (F) Western widow – *Lactrodectus Hesperus*
  - (3) Order Araneae, Family Laxoscelidae, Brown recluse spider – *Loxosceles reclusa*
  - (e) Class Chilopoda.
    - (1) Order Scolopendromorpha, Family Scolopendridae.
      - (A) Amazon giant banded centipede – *Scolopendra giganea*
      - (B) Arizona tiger centipede – *Scolopendra viridis*
      - (C) Florida keys centipede – *Solopendra alternans*
    - (f) Any Federal or State endangered or threatened species.
- 304.8-3. This section does not apply to:
- (a) Individuals who are eligible for any grandfather provisions included this law's adopting resolution(s).
  - (b) Zoological parks and/or sanctuary, educational or medical institution, and specially trained entertainment organizations who receive a permit from the Oneida Conservation Department to own, harbor or possess the animals.
    - (1) The Environmental Health and Safety Division may issue a permit under this section if:
      - (A) the animals and animal quarters are kept in a clean and sanitary condition and maintained to eliminate objectionable odors; and
      - (B) the animals are maintained in quarters so constructed as to prevent their escape.
    - (2) If approved by the Oneida Conservation Department, wildlife refuges/sanctuaries may release animals within the Reservation without applying for and receiving a permit as otherwise required under this Section.
- 304.8-4. *Seized Animals.* Any animal seized as a prohibited animal shall be held by the Oneida Conservation Department or its designee until that animal is identified to ascertain whether the animal is an "endangered or threatened species" pursuant applicable laws. At any time after such identification, the Oneida Conservation Department may seek an order from a hearing body as to the care, custody and control of the animal. The Oneida Conservation Department may also request the defendant to post a bond in an amount sufficient to satisfy the costs of holding, housing and/or caring for the animal. If the hearing body finds the animal has been taken, employed, used or possessed in violation of this section, the cost of holding the animal and any costs incurred in identifying the animals shall be assessed against the defendant.
- 304.8-5. *Notice of Release or Escape.* If an animal identified as prohibited under this section is released or escapes, the owner of the animal shall immediately notify the Oneida Conservation Department and/or the Oneida Police Department and shall be liable for any cost of recapture.
- 304.8-6. *Forfeiture of the Prohibited Animal.* Anyone found in violation of this section shall

forfeit or surrender the prohibited animal to the Oneida Conservation Department or designee. Upon such forfeiture or surrender, the Judiciary Trial Court may direct destruction or transfer of the animal to a qualified zoological, educational or scientific institution or qualified private propagator for safekeeping, with costs assessed against the defendant.

### **304.9. Regulation of Livestock**

304.9-1. Livestock may only be kept on land zoned residential if a conditional use permit is received from the Oneida Land Commission, however, not in excess of the following limitations:

- (a) One (1) large animal per one (1) acre. Examples of large animals include, but are not limited to horses, cows and pigs.
- (b) One (1) small animal per one-half (½) acre. Examples of small animals include, but are not limited to goats and sheep.
- (c) One (1) goat or sheep per recorded lot under one-half (½) acre when setback requirements can be met.

304.9-2. *Liability for Damage Caused by Livestock.* Any person whose livestock escapes from its normal confined area and becomes at large is responsible for any and all damage to persons and property caused by such livestock while it is away from its normal confined area.

304.9-3. *Hens.* A permit from the Oneida Conservation Department, based on the rules it shall develop, is required in order to keep an excess of four (4) hens. Roosters may not be kept.

(a) Persons keeping hens shall keep them in the following manner:

- (1) No person may keep a hen over eight (8) weeks of age in a principal structure.
- (2) Hens shall be kept within a structure such as a coop or fenced area used exclusively to keep hens and shall provide at least four (4) square feet per chicken.
- (3) No accessory structure used to keep hens may be located within twenty-five feet (25') of any principal structure which is not owned by the person licensed to possess the hens.
- (4) No accessory structure used to keep hens may be located in a front or side yard.

(b) In addition to compliance with the requirements of this section, no person may keep hens that cause any other nuisance associated with unhealthy condition, create a public health threat or otherwise interfere with the normal use of property or enjoyment of life by humans or animals.

### **304.10. Dangerous Animals**

304.10-1. *Classifying Dangerous Animals.* Owners of animals meeting the definition of a dangerous animal shall comply with the requirements contained in section 304.10-2 for harboring dangerous animals.

(a) For the purposes of this law, an animal is presumed to be dangerous if it:

- (1) approaches or chases a human being or domestic animal in a menacing fashion or apparent attitude of attack, without provocation; or
- (2) bites, inflicts injury, attacks, or otherwise endangers the safety of a human being or domestic animal without provocation.

(b) An animal may not be deemed a dangerous animal if it bites, attacked or menaces any person or animal to:

- (1) defend its owner or another person from an attack by a person or animal;



- (2) protect its young or another animal;
- (3) defend itself against any person or animal which has tormented, assaulted or abused it; and/or
- (4) defend its owner's property against trespassers.

(c) An Oneida Police Officer or Oneida Conservation Warden may, in his or her discretion, declare an animal dangerous, provided that, a citation for a violation of this section may be issued without having previously received such a declaration.

(d) An owner of an animal declared to be dangerous may appeal such declaration in accordance with section 304.12-2. All requirements for harboring dangerous animals in section 304.10-2 except subsections (d)-(f) apply to the animal pending the outcome of the hearing unless specifically stayed by the Judiciary.

304.10-2. *Harboring Dangerous Animals.* No person may harbor or keep a dangerous animal within the Reservation unless all provisions of this section are complied with. Any animal that is determined to be a vicious animal in accordance with section 304.10-3 may not, under any circumstances, be kept or harbored within the Reservation.

(a) *Leash and Muzzle.* No person keeping or possessing a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than four feet (4') in length.

(1) No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal is in physical control of the leash.

(2) The animal may not be leashed to inanimate objects such as trees, posts and buildings.

(3) A dangerous animal on a leash outside the animal's kennel must be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. The Environmental Health and Safety Division, with approval of the Environmental Resource Board, may provide a written exception excusing an otherwise dangerous animal from being muzzled. If such a written exception is issued, it shall be carried by the animal's owner at all times.

(b) *Confinement.* Except when leashed and muzzled as provided in subsection (a) above, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.

(1) *Confinement Outdoors.* When constructed in an open yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this subsection.

(A) The pen or kennel shall be child-proof from the outside and animal-proof from the inside.

(B) A strong metal double fence with adequate space between fences (at least two feet (2')) shall be provided so that a child cannot reach into the animal enclosure.

(C) The pen, kennel or structure shall have secure sides and a secure top attached to all sides.

(D) A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure.

(E) The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two feet (2')

(F) All structures erected to house dangerous animals shall comply with the requirements of all applicable laws and rules of the Nation.

(G) All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(2) *Confinement Indoors.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(c) *Signs.* The owner of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two inches (2") high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

(d) *Spay and Neuter Requirement.* If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner shall within thirty (30) days after the declaration shall provide the Environmental Resource Board with written proof from a licensed veterinarian that the animal has been spayed or neutered.

(e) *Liability Insurance.* If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner of the dangerous animal shall present proof to the Environmental Resource Board that the owner has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such a policy is cancelled or not renewed, the insurer shall so notify the Environmental Resource Board.

(f) *Microchipping.* If declared dangerous by an Oneida Police Officer or Oneida Conservation Officer, the owner of the dangerous animal shall provide proof to the Environmental Resource Board that the dangerous animal has had a microchip inserted for identification purposes within ten (10) calendars from the date the animal is declared dangerous.

(g) *Ongoing Notification Requirements.* After an animal has been declared dangerous, the owner shall have an ongoing duty to notify the Oneida Police Department:

(1) immediately if the dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being; and

(2) within twenty-four (24) hours if a dangerous animal has died, been sold or been given away. If the dangerous animal has been sold or given away, the owner shall also provide the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the Reservation or to a person or entity that falls outside of the jurisdiction of this law, the owner shall present evidence to the Oneida Police Department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence,

including the name, address and telephone number of the new owner. The Oneida Police Department shall forward all such notifications to the Environmental Resource Board within a reasonable amount of time.

(h) *Waiver by the Environmental Resource Board.* Upon request of an owner, the Environmental Resource Board may waive any requirement specified in subsections (a)-(f) that the Environmental Resource Board deems to be unnecessary for a particular dangerous animal. The Environmental Resource Board may waive the provisions of subsections (a)-(f) for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

(i) *Euthanasia.* If the owner of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

304.10-3. *Vicious Animals.* No person may bring or keep within the Reservation any animal that is a vicious animal under this section.

(a) *Declaration of Vicious Animal.* An Oneida Police Officer, Oneida Conservation Warden and/or the Judiciary Trial Court may declare an animal to be a vicious animal if the animal:

- (1) Is a dangerous animal in noncompliance with the requirements under Section 304.10-2;
- (2) Has killed a domestic animal or pet without provocation on public or private property;
- (3) Without provocation, has inflicted substantial bodily harm on a person on public or private property where substantial bodily harm means bodily injury that causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing;
- (4) Is suspected to be owned, trained or harbored for the purpose of dog fighting; and/or
- (5) Has been declared to be a vicious animal and/or ordered to be destroyed in any other jurisdiction.

(b) *Mandatory Hearing.* The owner of an animal declared to be a vicious animal shall attend a mandatory pre-hearing with the Judiciary Trial Court, the date for which shall be included on the declaration of vicious animal. At the pre-hearing it may be determined that mandatory attendance at Judiciary Trial Court hearing is also required if restitution is appropriate. The pre-hearing and any hearings are subject to the requirements contained in section 304.12-2.

- (1) All requirements for harboring dangerous animals in section 304.10-2 except subsections (d)-(f) apply to the said animal pending the outcome of the Judiciary Trial Court's pre-hearing and/or hearing.
- (2) At the pre-hearing, the Judiciary Trial Court may require the animal to be impounded pending the result of the hearing.
- (3) The Judiciary Trial Court may order a vicious animal to be destroyed if it finds it was so declared based on section 304.10-3(a)(3). If such an order is issued, the Judiciary Trial Court shall require the owner submit proof of destruction within five (5) business days from a licensed veterinarian. If the

owner does not satisfy these requirements, an Oneida Police Officer and/or an Oneida Conservation Warden shall seize the animal and enforce compliance at the cost of the owner.

(4) If the declaration of vicious animal is upheld upon appeal, the Judiciary Trial Court shall order the animal to be removed from the Reservation. Such order shall include the notification requirements contained in section 304.10-2(g) and provide the owner with a reasonable timeframe for removing the animal from the Reservation, provided that the timeframe may not exceed thirty (30) days after the date of the Judiciary Trial Court's decision.

(5) If the owner further appeals the determination of the Judiciary Trial Court to the Judiciary Court of Appeals, he or she shall submit the appeal within five (5) business days from the date of the Judiciary Trial Court's decisions, which is a shorter timeframe than required for all other appeals under this law. Upon an appeal to the Judiciary Court of Appeals, the requirement to order to remove the animal from the Reservation or any order to destroy an animal is stayed pending the outcome of the appeal.

(c) *Enforcement.* An Oneida Police Officer or Oneida Conservation Warden may make any inquiries deemed necessary to ensure compliance with this section and may seize an animal based on the owner's failure to comply.

(d) *Waiver.* The Judiciary may waive the provisions of this section for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

304.10-4. *Investigations for Suspected Domestic Animal Bites.* The owner shall notify the Oneida Police Department in the event the owner's cat or dog bites a human or another domestic animal.

(a) The responding Oneida Police Officer or Oneida Conservation Warden shall:

(1) Ascertain whether the domestic animal is properly licensed and has current vaccinations.

(2) Ensure all information provided is correct.

(3) Contact the Environmental, Health and Safety Division to notify them of the domestic animal bite.

(4) If the cat or dog has current rabies vaccinations, order the owner to:

(A) Quarantine the animal for ten (10) days; and

(B) Present the animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one (1) day in between the first twenty-four (24) hours and the tenth (10<sup>th</sup>) day.

(5) If the cat or dog does not have current rabies vaccination, order the owner to:

(A) Quarantine the animal for ten (10) days or deliver the animal to an isolation facility at the owner's expense. If a home quarantine is ordered, the owner shall present the domestic animal for examination by a veterinarian within twenty-four (24) hours of the bite, on the last day of quarantine and on one (1) day in between the first twenty-four (24) hours and the tenth (10<sup>th</sup>) day; or

(B) Euthanize the animal and send the specimen for analysis at the owner's expense, if the animal has exhibited any signs of rabies.

(b) Upon expiration of a quarantine period, a veterinarian may extend the quarantine

period. Upon expiration of all quarantine periods, if the veterinarian certifies that the animal has not exhibited any signs of rabies, the animal may be released from quarantine.

(c) If the veterinarian certifies that the animal has exhibited any signs of rabies the following shall occur:

(1) If the animal has current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis, to be paid for by the Nation.

(2) If the animal does not have current rabies vaccinations, the Oneida Police Officer or Oneida Conservation Warden may order the animal to be euthanized and send the specimen for analysis at the owner's expense.

### **304.11. Owner Liability for Domestic Animals**

304.11-1. Owners are liable for damages caused by their domestic animal(s).

(a) *First Offense.* The owner is liable for the full amount of damages caused by the domestic animal.

(b) *Subsequent Offenses.* The owner shall be liable for two (2) times the full amount of damages caused by the domestic animal if the owner knew or should have known that the domestic animal previously caused damages.

### **304.12. Violations, Enforcement and Appeals**

304.12-1. *Citations.* Citations for the violation of this law and/or orders issued pursuant to this law may include fines, penalties and conditional and other orders in accordance with the schedule developed under section 304.5-2. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(a) Any order issued pursuant to this law that is not complied with may be physically enforced by Oneida Police Officers or Oneida Conservation Wardens at the Owner's expense.

(b) The Oneida Police Department, by means of Oneida Police Officers and Oneida Conservation Wardens, is authorized to take any appropriate action to prevent or remove a violation of this Law.

304.12-2. *Hearing and Appeals of Contested Actions.* All citations, orders and declarations issued pursuant to this law shall include a pre-hearing date with the Judiciary Trial Court which shall be set for the next scheduled monthly prehearing date that is at least thirty (30) days after the citation was issued. Persons wishing to contest a citation shall appear at the prehearing, at which time the Judiciary Trial Court shall accept pleas which either contest or admit committing the act for which the citation was issued. The Judiciary shall schedule a hearing as expeditiously as possible, provided that it shall be scheduled within ninety (90) days of the date of the prehearing, for all persons entering a plea contesting the fact that they committed the act for which a citation was issued. In addition to scheduling requested hearings, the Judiciary may also make conditional orders at the prehearing which are effective until the matter is resolved.

(a) *Community Service.* Community service may be substituted for monetary fines at the Judiciary's discretion, provided that, if so substituted, the Judiciary shall use the rate of one (1) hour per ten dollars (\$10) of the fine.

(b) *Allocation of Citation Revenue.* All citations shall be paid to the Environmental Resource Board or its designee, the proceeds of which shall be contributed to General Fund.

(c) *Appealing the Decision of the Judiciary Trial Court.* Any person wishing to contest the determination of the Judiciary Trial Court may appeal to the Judiciary Court of Appeals in accordance with the Rules of Appellate Procedure.

(d) *Pursuing Payment of a Citation.* The Environmental Resource Board may pursue payment from parties who have failed to make the required payments through the garnishment process contained in the Garnishment law and/or by attaching the judgment to Tribal member's per capita payment pursuant to the Per Capita law.

*End.*

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