



TO: Legislative Operating Committee (LOC)
FROM: Clorissa N. Santiago, Legislative Reference Office, Staff Attorney
DATE: May 1, 2019
RE: Domestic Animals Law Amendments: Public Meeting Comment Review

On March 11, 2019, a public meeting was held regarding proposed amendments to the Domestic Animals law (“the Law”). The public comment period was then held open until March 18, 2019. This memorandum is submitted as a review of the oral and written comments received within the public meeting and public comment period.

On April 17, 2019, the Legislative Operating Committee reviewed and considered all public comments that were received.

Comment 1 – Prohibited Animals Resolution:

304.10. Prohibited Animals

304.10-2. *Prohibited Animals.* Prohibited animals include the following orders and families, whether bred in the wild or in captivity, and any or all hybrids. The animals listed 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.** This includes all bat species.
- (2) Order Artiodactyla.** This includes hippopotamuses, giraffes, camels, and deer, but does not include domestic cattle, swine, sheep, goats, alpaca, and llama as exotic animals.
- (3) Order Carnivora.**
 - (A) Family Felidae.** This includes lions, tigers, cougars, leopards, ocelots, and servals, but does not include domestic cats as exotic animals.
 - (B) Family Canidae.** This includes wolves, wolf hybrids, coyotes, coyote hybrids, foxes, and jackals, but does not include domestic dogs as exotic animals.
 - (C) Family Ursidae.** This includes all bears.
 - (D) Family Mustelidae.** This includes weasels, skunks, martins, and minks, but does not include ferrets as exotic animals.
 - (E) Family Procyonidae.** This includes raccoons, and coatis.
 - (F) Family Hyaenidae.** This includes hyenas.
 - (G) Family Viverridae.** This includes civets, genets, and mongooses.
- (4) Order Edentatia.** This includes anteaters, armadillos, and sloths.
- (5) Order Marsupialia.** This includes opossums, kangaroos, wallabies, and sugar gliders.
- (6) Order Perissodactyla.** This includes rhinoceroses, and tapirs, but does not

- include horses, goats, and mules as exotic animals.
- (7) Order Primates. This includes lemurs, monkeys, chimpanzees, and gorillas.
- (8) Order Proboscidae. This includes elephants.
- (9) Order Rodentia. This includes squirrels, beavers, porcupines, and prairie dogs, but does not include guinea pigs, rats, mice, gerbils, and hamsters as exotic animals.
- (b) *Class Reptilia.*
- (1) Order Squamata.
- (A) Family Helodermatidae. This includes Gila monsters and Mexican beaded lizards.
- (B) Family Varaidae. This includes any monitor lizard which will normally grow over two feet in length.
- (C) Family Iguanidae. This includes green iguanas and rock iguanas, but does not include all other types of iguanas which are not green or rock iguanas.
- (D) Family Boidae. This includes all species whose adult length may exceed eight (8) feet.
- (E) Family Colubridae. This includes boomslangs and African twig snakes.
- (F) Family Elapidae. This includes coral snakes, cobras, and mambas.
- (G) Family Nactricidae. This includes keelback snakes, but does not include all other snakes not keelback.
- (H) Family Viperidae. This includes copperheads, cottonmouths, and rattlesnakes.
- (2) Order Crocodilia. This includes crocodiles, alligators, caimans, and gavials.
- (c) *Class Aves.*
- (1) Order Falconiformes. This includes eagles, hawks, and vultures.
- (2) Order Rheiformes. This includes rheas.
- (3) Order Struthioniformes. This includes ostriches.
- (4) Order Casuariiformes. This includes cassowaries and emus.
- (5) Order Strigiformes. This includes owls.
- (d) *Class Arachnida.*
- (1) Order Scorpiones,
- (A) Family Buthidae. This includes scorpions.
- (2) Order Araneae,
- (A) Family Therididae. This includes the Argentina red widow spider, brown widow spider, red-black widow spider, red widow spider, southern black widow spider, and Western widow spider.
- (B) Family Laxoscelidae, This includes the brown recluse spider.
- (e) *Class Chilopoda.*
- (1) Order Scolopendromorpha,
- (A) Family Scolopendridae. This includes centipedes.
- (f) Any Federal or State endangered or threatened species.

Candice Skenandore (written): In order to avoid future amendments to the Domestic Animals (Law), the Legislative Operating Committee (LOC) may want to consider removing proposed section 304.10 Prohibited Animals from the Law and place this information into a resolution. This will allow the list of prohibited animals to be revised from time to time as the Community's needs change. The Law could simply refer to the Resolution and the Resolution can be published alongside the Law on the Code of Laws so as the Community has easy access to such information.

Response

The commenter requests that section 304.10 of the Law be removed, and instead have the information contained in section 304.10 placed in a resolution to be adopted by the Oneida Business Committee. The commenter believes that having the information addressed by resolution would allow for greater flexibility in amending the prohibited animals list as the Nation's needs change in the future. Resolutions are considered to provide more flexibility than a law because a resolution does not have to follow the requirements of the Legislative Procedures Act. [1 O.C. 109].

Section 304.10 of the Law contains much valuable information that should remain in the Law including:

- The general provision that no person is allowed to 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 a prohibited animal [3 O.C. 304.10-1];
- A prohibited animal exception that allows certain individuals to own, harbor, or possess prohibited animals, including those individuals who are eligible for any grandfather provisions included in this law's adopting resolution, and any zoological park and/or sanctuary, an educational or medical institution, and/or a specially trained entertainment organization who receives a permit from the Environmental, Health, Safety, and Land Division [3 O.C. 304.10-3];
- The authority delegated to the Environmental, Health, Safety, and Land Division to issue a prohibited animal permit when certain conditions exist [3 O.C. 304.10-4];
- The authority delegated to the Environmental, Health, Safety, and Land Division to approve a wildlife refuge and/or sanctuary to release prohibited animals within the Reservation without applying for and receiving a prohibited animal permit [3 O.C. 304.10-5];
- Provisions regarding the Oneida Police Department and Oneida Conservation Department's authority to seize prohibited animals [3 O.C. 304.10-6];
- The requirement of an owner of a prohibited animal that has been released or escapes to immediately notify the Oneida Police Department and/or the Oneida Conservation Department [3 O.C. 304.10-7]; and
- Provisions regarding the forfeiture of prohibited animals [3 O.C. 304.10-8].

It is not recommended that any of the above stated provisions be removed from the Law and placed into a resolution of the Nation.

Section 304.10-2 of the Law provides specific information as to what orders and families of animals, whether bred in the wild or in captivity, and any or all hybrids, are prohibited from being

on the Reservation. The animals listed alongside the orders and families in the Law serve as examples and are not an exhaustive list of all animals that are prohibited.

Section 304.10-2, unlike the other provisions of section 304.10, could potentially be removed from the Law and placed into a resolution. Providing the prohibited animals list within the Law itself allows for more convenience to the reader as all the relevant information regarding prohibited animals is found in one place. Although there may be more convenience to the reader, the flexibility to revise and amend the prohibited animals list is affected as any changes to the Law would be required to follow the Legislative Procedures Act which can be a lengthy process.

On the other hand, providing the prohibited animals list through a resolution of the Nation would provide more flexibility and ease in adjusting the prohibited animals list to fit the needs of the Nation as those needs may change in the future. Allowing the flexibility to change the prohibited animals list by resolution would result in the necessity for a reader looking for information on prohibited animals to consult more than one document to find all the relevant information, which may be considered an inconvenience.

Whether or not to include the list of prohibited animals in the Law itself, or in a resolution, is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may determine:

1. The Law should remain as currently drafted and provide the prohibited animals list in section 304.10-2 of the Law.
2. Section 304.10-2 of the Law which provides the prohibited animals list should be removed, and instead the Legislative Operating Committee should include a provision that requires the prohibited animals list to be set by resolution.
 - a. If the Legislative Operating Committee makes this determination then the following language is recommended:
304.10-2. *Prohibited Animals.* The Oneida Business Committee shall provide through the adoption of a resolution which orders and families of animals, whether bred in the wild or in captivity, and any or all hybrids are prohibited from being on the Reservation.

LOC Consideration

The Legislative Operating Committee decided that section 304.10-2 of the Law, which provides the prohibited animals list, should be removed from the law and placed instead into a resolution that will be adopted by the Oneida Business Committee. The Legislative Operating Committee made this decision based on the fact that it would provide greater flexibility in changing the prohibited animals list in the future if the needs of the Nation change.

The Legislative Operating Committee directed the following revision be made to the Law:

304.10-2. *Prohibited Animals.* The Oneida Business Committee shall provide through the adoption of a resolution which orders and families of animals, whether bred in the wild or in captivity, and any or all hybrids are prohibited from being on the Reservation. ~~Prohibited animals include the following orders and families, whether bred in the wild or in captivity, and any or all~~

hybrids. The animals listed 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. This includes all bat species.~~

~~(2) — Order Artiodactyla. This includes hippopotamuses, giraffes, camels, and deer, but does not include domestic cattle, swine, sheep, goats, alpaca, and llama as prohibited animals.~~

~~(3) — Order Carnivora:~~

~~(A) — Family Felidae. This includes lions, tigers, cougars, leopards, ocelots, and servals, but does not include domestic cats as prohibited animals.~~

~~(B) — Family Canidae. This includes wolves, wolf hybrids, coyotes, coyote hybrids, foxes, and jackals, but does not include domestic dogs as prohibited animals.~~

~~(C) — Family Ursidae. This includes all bears.~~

~~(D) — Family Mustelidae. This includes weasels, skunks, martins, and minks, but does not include ferrets as prohibited animals.~~

~~(E) — Family Procyonidae. This includes raccoons, and coatis.~~

~~(F) — Family Hyaenidae. This includes hyenas.~~

~~(G) — Family Viverridae. This includes civets, genets, and mongooses.~~

~~(4) — Order Edentatia. This includes anteaters, armadillos, and sloths.~~

~~(5) — Order Marsupialia. This includes opossums, kangaroos, wallabies, and sugar gliders.~~

~~(6) — Order Perissodactyla. This includes rhinoceroses, and tapirs, but does not include horses, goats, and mules as prohibited animals.~~

~~(7) — Order Primates. This includes lemurs, monkeys, chimpanzees, and gorillas.~~

~~(8) — Order Proboscidae. This includes elephants.~~

~~(9) — Order Rodentia. This includes squirrels, beavers, porcupines, and prairie dogs, but does not include guinea pigs, rats, mice, gerbils, and hamsters as prohibited animals.~~

~~(b) — Class Reptilia:~~

~~(1) — Order Squamata:~~

~~(A) — Family Helodermatidae. This includes Gila monsters and Mexican beaded lizards.~~

~~(B) — Family Varaidae. This includes any monitor lizard which will normally grow over two feet in length.~~

~~(C) — Family Iguanidae. This includes green iguanas and rock iguanas, but does not include all other types of iguanas which are not green or rock iguanas.~~

~~(D) — Family Boidae. This includes all species whose adult length may exceed eight (8) feet.~~

~~(E) — Family Colubridae. This includes boomslangs and African twig snakes.~~

~~(F) — Family Elapidae. This includes coral snakes, cobras, and mambas.~~

- ~~(G) Family Nactricidae. This includes keelback snakes, but does not include all other snakes not keelback.~~
- ~~(H) Family Viperidae. This includes copperheads, cottonmouths, and rattlesnakes.~~
- ~~(2) Order Crocodilia. This includes crocodiles, alligators, caimans, and gavials.~~
- ~~(c) Class Aves:~~
 - ~~(1) Order Falconiformes. This includes eagles, hawks, and vultures.~~
 - ~~(2) Order Rheiformes. This includes rheas.~~
 - ~~(3) Order Struthioniformes. This includes ostriches.~~
 - ~~(4) Order Casuariiformes. This includes cassowaries and emus.~~
 - ~~(5) Order Strigiformes. This includes owls.~~
- ~~(d) Class Arachnida:~~
 - ~~(1) Order Scorpiones:~~
 - ~~(A) Family Buthidae. This includes scorpions.~~
 - ~~(2) Order Araneae:~~
 - ~~(A) Family Theridadae. This includes the Argentina red widow spider, brown widow spider, red black widow spider, red widow spider, southern black widow spider, and Western widow spider.~~
 - ~~(B) Family Laxoscelidae. This includes the brown recluse spider.~~
- ~~(e) Class Chilopoda:~~
 - ~~(1) Order Scolopendromorpha:~~
 - ~~(A) Family Scolopendridae. This includes centipedes.~~
- ~~(f) Any Federal or State endangered or threatened species.~~

Comment 2 – Alpacas and Llamas:

Candice Skenandore (written): I applaud the LOC for their continued support of excluding animals such as alpacas and llamas from the list of prohibited animals. This will ensure that our Community can enjoy these creatures for generations to come. Should the LOC choose to remove the list of prohibited animals and instead identify such animals by Resolution, I recommend that alpacas and llamas still be allowed to safely reside within the Reservation boundaries [See *proposed Domestic Animals, 3 O.C. 304.10-2 (a) (2)*].

Response

The commenter expresses gratitude to the Legislative Operating Committee for ensuring that alpacas and llamas are not placed on the prohibited animal list provided in section 304.10-2 of the Law so that the community can continue to enjoy these animals.

There is no recommended revision based on this comment.

LOC Consideration

The Legislative Operating Committee determined there was no revision to the draft needed based on this comment.

Comment 3 – Sugar Gliders:

304.10. Prohibited Animals

304.10-2. *Prohibited Animals.* Prohibited animals include the following orders and families, whether bred in the wild or in captivity, and any or all hybrids. The animals listed 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.*

(5) **Order Marsupialia.** This includes opossums, kangaroos, wallabies, and sugar gliders.

Candice Skenandore (written): I do not agree with the LOC's decision to continue including sugar gliders from the list of prohibited animals and ask that the LOC reconsider allowing these adorable marsupialia to reside on the Reservation [See *proposed Domestic Animals*, 3 O.C. 304.10-2 (a) (5)]. According to PetMD, sugar gliders make excellent pets so long as the owner(s) understands the needs of these amazing creatures. Sugar gliders are nocturnal, meaning they can provide companionship to our Community members that may work the 3rd shift or have trouble sleeping. The average life-span of a sugar glider is 5-7 years which is enough time to teach children the importance of taking care of another life while not burdening a family with a lengthy commitment. Typical adult male sugar gliders weigh 0.22-0.35 lbs and adult females weigh 0.18-0.29 lbs. Females only produce 1-2 joeys (babies) per litter which will ensure that the Community will not be overrun with sugar gliders. Lastly, sugar gliders are omnivores (eat both plant and animal matter) and enjoy insects such as crickets and mealworms. Allowing sugar gliders to reside on the Reservation may ease the noise of the occasional cricket that gets trapped in a house or dwelling during those long summer months. This could improve the sanity and sleep of the Community [See *PetMD*, <https://www.petmd.com/exotic/care/all-about-sugar-gliders>].

The LOC should be made aware that sugar gliders can also serve as emotional support animals. According to Americans with Disabilities Act National Network, emotional support animals are animals that provide companionship, relieve loneliness, and may help with depression, anxiety and certain phobias. An article by College Avenue Magazine talks about a student's struggle after brain surgery and that her sugar glider named "Zaboo" provide comfort to her during her recovery process [See *College Avenue Magazine*, <https://collegian.com/2018/02/sugar-gliders-can-be-service-animals-too/>]. I highly encourage the LOC to reconsider denying our Community the comfort, joy, and emotional support that sugar gliders bring.

Response

The commenter disagrees with the inclusion of sugar gliders on the prohibited animal list found in section 304.10-2(a)(5).

The determination of what animals to prohibit from the Reservation is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may determine:

1. The Law should remain as currently drafted and prohibited sugar gliders from being kept as pets on the Reservation.

2. The Law should be revised to remove sugar gliders from the prohibited animals list and therefore be allowed to be kept as pets on the Reservation.
 - a. If the Legislative Operating Committee makes this determination then the following revision should be made:
304.10-2. Prohibited Animals. Prohibited animals include the following orders and families, whether bred in the wild or in captivity, and any or all hybrids. The animals listed 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.
 - (5) Order Marsupialia. This includes opossums, kangaroos, and wallabies, but does not include ~~and~~ sugar gliders as prohibited animals.

LOC Consideration

The Legislative Operating Committee had a lengthy discussion on whether sugar gliders should remain on the prohibited animals list for the Nation.

The Legislative Operating Committee discussed the fact that sugar gliders are currently prohibited in many surrounding local municipalities such as Green Bay and Ashwaubenon. The Legislative Operating Committee then discussed why sugar gliders are prohibited from being kept as pets in many areas in the first place. Sugar gliders are prohibited from being kept as pets in many places due to the fact that sugar gliders are difficult animals to care for. The Legislative Operating Committee discussed some research that was conducted on why sugar gliders are hard animals to care for including the fact that sugar gliders are social animals so they are not happy as solo pets and do better with other sugar gliders, sugar gliders have a very specific diet that must be followed, sugar gliders are nocturnal animals, and they require cages with lots of space.

Although the decision was not unanimous, the Legislative Operating Committee ultimately determined the Law should remain as currently drafted and sugar gliders should remain on the prohibited animals list due to the fact that the animals are normally prohibited in an effort to ensure the animals are not mistreated or improperly cared for.

Comment 4 – Limit of the Number of Hens Allowed:

304.9. Hens

304.9-3. *Limit on the Number of Hens Allowed.* The number of hens an owner may keep is dependent on the size of the residential lot.

- (a) An owner may keep up to four (4) hens on a residential lot that is two (2) acres in size or smaller.
- (b) An owner may keep up to eight (8) hens on a residential lot two (2) acres in size or larger.

Laura Laitinen-Warren on behalf of Chairman Tehassi Hill (written): Good Afternoon, Chairman Hill has would like to ensure consideration for the amount of hens needed for egg

production to provide for a family. The limit on 4 hens for property that is two acres or smaller may be too restrictive. The Oneida Nation demonstrates our right to food sovereignty, and we want to be sure we are not putting up barriers for citizens who also wish to exercise this right. Thank you for the opportunity to comment.

Response

The commenter shares concerns that the limit of up to four (4) hens on a residential lot that is two (2) acres or smaller may be too restrictive in terms of egg production to provide for a family. The commenter expresses the importance of our right to food sovereignty and wants to ensure this limitation on the number of hens is not a barrier for those members of the Nation who wish to exercise their right to food sovereignty.

The limitation of up to four (4) hens on a residential lot that is two (2) acres or smaller was a policy decision made by the Legislative Operating Committee. The Legislative Operating Committee made the decision on what extent to limit hens after research was conducted on the limitations of hens in other surrounding municipalities. The research demonstrated the following limitations on the number of hens allowed in other local municipalities:

- City of De Pere: Up to four (4) hens are allowed with a permit;
- City of Green Bay: Up to four (4) hens are allowed with a permit;
- Village of Ashwaubenon: Up to four (4) hens are allowed with a permit;
- Village of Howard: Up to four (4) hens allowed on lots of two acres or less, up to eight (8) hens allowed on lots larger than two acres; and
- Village of Hobart: Up to six (6) hens allowed on properties in single family zoning districts.

Although not required to be, the Legislative Operating Committee determined that this was a matter in which consistency with our neighboring municipalities would be beneficial to the Nation.

Additionally, the Legislative Operating Committee decided to base the limitation on the size of the residential lot in acknowledgement that there are many different homes found throughout the Reservation, and a home with a larger lot size could be better equipped to house more hens without causing a nuisance.

The limitation on the number of hens that are allowed on certain lot sizes within the Reservation is a policy decision for the Legislative Operating Committee to make. The Legislative Operating Committee may determine:

1. The Law should remain as currently drafted and provide the limitation of up to four (4) hens on a residential lot that is two (2) acres or smaller.
2. The Law should be amended to increase the limitation on the number of hens that are allowed on a residential lot that is two (2) acres or smaller.
 - a. If the Legislative Operating Committee makes this determination then the Legislative Operating Committee will have to determine what the appropriate limitation on the number of hens allowed on a residential lot that is two (2) acres or smaller.

LOC Consideration

The Legislative Operating Committee discussed whether the Law should remain as currently drafted and provide the limitation of up to four (4) hens on a residential lot that is two (2) acres or smaller, or if this limitation should be increased. The Legislative Operating Committee discussed the fact that there are many families within the Reservation that raise hens as a source of food, and the fact that they would not want to negatively impact their efforts. The Legislative Operating Committee discussed the fact that their experience with friends and family that raise hens has demonstrated that not all hens lay eggs every day. The fact that this limitation only applies to those homes zoned residential, and does not apply to homes zoned agricultural was also discussed.

Ultimately the Legislative Operating Committee decided that the limitation on the number of hens should be increased. The Legislative Operating Committee directed that the following revision be made to the Law:

304.9-3. *Limit on the Number of Hens Allowed.* The number of hens an owner may keep is dependent on the size of the residential lot.

- (a) An owner may to keep up to ~~six~~ ~~four~~ (64) hens on a residential lot that is two (2) acres in size or smaller.
- (b) An owner may keep up to ~~twelve~~ ~~eight~~ (128) hens on a residential lot two (2) acres in size or larger.