

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LEWIS COUNTY, WASHINGTON**

Notice of Public Hearing to take public testimony
and comments regarding the proposed revision of
Lewis County Code (LCC) Chapter 6.05 - Animals

)
)
) Resolution # 14-313

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Lewis County *Board of County Commissioners (BOCC)* in the *Hearing Room* at 351 NW North Street, Chehalis, Washington on December 15, 2014 on or about 10:00 am; AND

WHEREAS, public notice of said hearing is required by law;

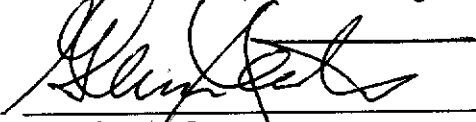
NOW THEREFORE BE IT RESOLVED that a public hearing is hereby scheduled for December 15, 2014 to take public testimony and input regarding the proposed changes to LCC 6.05 – Animals, with final BOCC action to take place on December 15, 2014 following the public hearing.

BE IT FURTHER RESOLVED that the Clerk of the Board is hereby instructed to proceed with all appropriate and necessary notifications, posting, and publication as required by law.

DONE IN OPEN SESSION this 1st day of December, 2014.

APPROVED AS TO FORM:

Jonathan Meyer, Prosecuting Attorney


By: Glenn Carter
Civil Deputy Prosecuting Attorney

ATTEST:


Clerk of the Board


SEAL OF LEWIS COUNTY, WASHINGTON
BOARD OF COUNTY COMMISSIONERS
SINCE 1845
WASHINGTON'S 1st COUNTY

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**


F. Lee Grose, Chairman


Edna J. Fund, Vice Chairman


P.W. Schulte, Commissioner

Publish in The Chronicle December 2, 2014 and the East County Journal December 3, 2014

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the BOARD OF COUNTY COMMISSIONERS of Lewis County, Washington, will conduct a public hearing for the purpose of taking public testimony and comments regarding the **proposed revision of Lewis County Code (LCC) Chapter 6.05 – Animals.**

The public hearing will be held as follows:

DATE: December 15, 2015
TIME: On or about 10:00 AM
PLACE: County Commissioners Hearing Room
Lewis County Historic Courthouse – 2nd Floor
351 NW North Street
Chehalis, Washington

The proposed changes to LCC 6.05, entitled “Animals” are summarized as follows:

The proposed changes to LCC 6.05 are intended to bring county code into compliance with the recent decision in *Downy v. Pierce County* and to more efficiently handle matters related to animals in the unincorporated areas of Lewis County.

As proposed, LCC 6.05 will have a more expansive definitional section which is more closely aligned with related State laws and ensures that the code is understandable and internally consistent.

The proposal more clearly delineates which prohibited activities carry criminal and civil penalties. The prohibited activities are defined and give the public clear notice about their rights and responsibilities with respect to their animals.

The proposal expands the notice requirements and procedural safeguards in place with respect to the declaration of dangerous animals. The proposed amendments provide for a hearing on the record and for a meaningful appeal from the initial hearing. An individual facing a possible declaration hearing would be given the ability to subpoena witnesses through the hearing officer.

The proposal provides for clear guidelines related to disposition of impounded animals. An administrative warrant provision has been added to allow for enforcement and impoundment of animals apparently violating the provisions of the code.

The proposal allows for Lewis County to reclaim costs associated with enforcement.

The full text of the regulations proposed to be adopted by Lewis County will be mailed upon request submitted to the Lewis County Public Health & Social Services Department, 3rd floor, located at 360 NW North Street, Chehalis, WA 98532 (Tel: 360 - 740 - 1223).

An overview of the proposed Lewis County Code 6.05 will be available for review at the same location as well as the Lewis County Environmental Health office in the Public Works building at 2025 NE Kresky Ave., Chehalis, WA 98532.

Written comments may be submitted to the Clerk of the Board of County Commissioners at the Lewis County Historic Courthouse, 2nd floor, 351 NW North Street, Chehalis, WA 98532 by 4:00 on December 12, 2015.

PUBLICATION DATE: East County Journal: (December 3, 2014)
The Chronicle: (December 2, 2014)

6.05.010 Definitions.

In construing the provisions of this chapter, except where otherwise plainly declared or clearly apparent from the context, words used herein shall be given their common and ordinary meaning; in addition, the following definitions shall apply:

- (1) "Adequate shelter" means a moisture-proof and wind-proof structure that allows the animal to turn around freely, sit easily, stand and lie normally and that keeps the animal clean, dry and comfortable.
- (2) "Adoption" means transferring ownership of an animal from Lewis County to a third party.
- (3) "Adult dog" and "adult cat" mean any dog or cat past the age of six months, or whose permanent canine teeth have erupted through the gum line.
- (4) "Animal" means all members of the animal kingdom except humans, fish, and insects.
- (5) "Animal control authority" means the Lewis County sheriff and/or his authorized personnel. This term as used throughout this chapter shall not be construed to limit the authority of any fully commissioned law enforcement officer.
- (6) "Animal Shelter" and "Animal animal shelter division" and "Lewis County animal shelter" means the Lewis County animal shelter a location designated by the Director of Public Health & Social Services for the purpose of housing and maintaining animals held by Lewis County..
- (7) "At large" means off the premises of the owner or keeper of the animal, and not under restraint by leash or chain or not otherwise controlled by a competent person.
- (8) "Competent person" means a person who is able to sufficiently care for, control, and restrain his/~~her~~an animal, and who has the capacity to exercise sound judgment regarding the rights and safety of others.
- (9) "Dangerous animal" means any animal that:
 - (a) On public or private property, inflicted severe injury on a human being without provocation, including without limitation: causing i) a fracture of any body part, ii) a cut or laceration or puncture wound which bleeds, iii) a contusion which is visible for more than thirteen days, iv) great or serious or substantial bodily harm as defined by Title 9A of the Revised Code of Washington, or v) death on public or private property; or
 - (b) Killed a domestic animal ~~without provocation while~~ while at large or off the owner's property; or
 - (c) Has been previously found to be potentially dangerous ~~because of injury inflicted on a human,~~ and the owner having received notice of such finding under this chapter, and the animal again aggressively bites, attacks, or endangers the safety of humans or animals. It shall be necessary to

prove the initial event triggering the potentially dangerous animal designation, service of notice of the designation, and the current event of aggressively biting, attacking, or endangering the safety of humans or animals before an animal may be declared dangerous based upon a prior finding that the animal was potentially dangerous. It is not necessary that an animal have been declared potentially dangerous prior to being declared dangerous unless the basis for the dangerous animal declaration is the prior finding of potentially dangerous animal.

(10) "Designated animal holding facility" means a facility designated by the Director of Public Health & Social Services for the purpose of holding animals. the Lewis County animal shelter, or any other facility designated by the Lewis County animal shelter.

(11) "Domestic animal" means those domestic beasts such as any dog, cat, rabbit, horse, mule, ass, bovine animal, poultry, duck, lamb, goat, sheep or hog, or other animal made to be domestic or lawfully owned or kept as a pet.

(12) "Hearing examiner" shall mean the hearing examiner for the county of Lewis or a deputy thereof to hear civil appeals relating to the enforcement of this title, and as defined in LCC 2.25.

(13) "Humanely destroy" means the destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness and death during such loss of consciousness. The term shall include euthanasia in a manner consistent with best veterinary practices; provided that the term is not interpreted to exclude other humane destruction of animals without the assistance of a licensed veterinarian.

(14) "Humane officer" means any individual appointed by the Lewis County sheriff's office with a limited law enforcement commission for the purpose of enforcement of statutes pertaining to the care and treatment of animals as well as other legislation directly related to animal neglect or abuse.

(15) ~~"Keeper" means any person performing any of the acts of providing care, shelter, protection, refuge, food, or nourishment in such manner as to control the animal's actions, or that the animal(s) is treated as living at one's house."~~Impound" means to seize and deliver an animal to the Lewis County Sheriff or the Sheriff's deputy or the Director of Public Health & Social Services or the director's designee for the purpose of housing and maintaining the animal for a period of time at the animal shelter. The Lewis County Sheriff and the Director of Public Health & Social Services may designate, together or separately, to whome animals are to be delivered for impoundment.

(16) "Livestock" includes, but is not limited to, horses, mules, cattle, llamas, sheep, swine, goats, poultry, and domestic rabbits.

(17) "Muzzle" means a fastening or covering of the mouth of an animal to prevent biting and made in a manner that will not cause injury to the animal or interfere with its vision or respiration.

(18) "Owner" or "Keeper", in addition to their ordinary meanings are terms that can be used interchangeably within this chapter and mean any means any person, firm, corporation, organization, or department or other entity possessing, harboring, keeping, having or claiming an interest in, or having control or custody of an animal for at least three calendar days, whether or not all of the traditional rights of ownership are vested in the entity. The terms also refer to any entity performing any of the acts of providing care, shelter, protection, refuge, food, water, or nourishment in such manner as to control or attempt to control the animal's actions or habits, when the entity provides any of these acts or exercises control for three calendar days or more. An entity is an owner or keeper when an animal is apparently spending the majority of its time at a location under that entity's control for a period of at least three calendar days. When the terms are used to mean the owner or keeper of something other than an animal, the terms shall have their plain and ordinary meanings.

(19) "Police dog" means a dog used by a law enforcement agency ~~that is;~~ specially trained for law enforcement work ~~and under the physical or verbal control of a dog handler.~~

(20) "Potentially dangerous animal" means any animal that, when unprovoked:

(a) Inflicts bites on a human or a domestic animal either on public or private property; or

(b) Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any animal with a particularly known propensity, tendency or disposition to attack unprovoked, to cause injury or otherwise to threaten the safety of humans or domestic animals.

(21) "Premises" means any parcel of land and the structures thereon.

(22) "Proper enclosure" means securely confined indoors ~~if no children live indoors~~, or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and floor and shall also provide protection from the elements for the animal and shall comply with the current standards of a national veterinarian, zoological, or animal protection organization for the humane and secure enclosure of the individual animal species. The animal authority shall be the final authority for determining whether an enclosure is proper. A motor vehicle is not a proper enclosure for the purposes of this chapter.

(23) "Property" means anything of value, whether tangible or intangible, real or personal. Animals are personal property.

(24) "Provocation" includes, but is not limited to, a person apparently committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or tormenting, abusing, or assaulting the animal, in any location, or has, in the past, been observed or reported to have tormented, abused, or assaulted an animal or has or was committing or attempting to commit a crime.

(25) "Public nuisance" means and includes, in addition to its statutory and common law definitions, any material violation of the provisions of this title. It also means and includes any unlawful act of omission or commission, which without any direct physical contact or interference endangers the lives, safety, health, comfort or property of the public.

(26) "Quarantine" means the strict confinement, isolation and observation of a domestic dog, cat, or ferret that has inflicted a bite upon any person and where such bite has broken the skin. A quarantine shall last for a minimum of 10 days, where required.

(27) "Service animal" means any animal, which is trained, or being trained to aid a person who is blind, hearing impaired, or otherwise disabled, is used for that purpose and is registered with a recognized service animal organization. The term also includes every animal so defined by Federal or Washington State statutes or rules, whether or not the animal is registered.

~~(26) "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.~~

(28) "Sterilized" means animals rendered permanently incapable of reproducing by surgical alteration, implantation of a device, or other physical means.

~~(28)~~(29)When any provision of this chapter makes liability contingent upon a degree of culpability, the definition of that degree of culpability shall be the same as defined in RCW 9A.08.010, as it exists now or as it is amended.

6.05.020 Prohibited activities of animals.

~~It shall be unlawful and a public nuisance for owners or keepers of any animal to permit their animal to:~~An owner or keeper of any animal shall be strictly liable if he or she permits that animal to:

(1) Habitually bark, howl, yelp, or make any other noise which disturbs the peace and quiet of any person to an unreasonable degree within Lewis County. In addition to its ordinary meaning, an animal is habitually making noise which disturbs the peace and quiet of any person to an unreasonable degree when the animal makes constant or repeated noise or noises extending for thirty minutes or more between the hours of 9:00pm and 7:00am when that noise is audible within a residence belonging to a person other than the animal's owner or keeper.

(2) Snap, snarl, growl, bite, jump at or upon or otherwise threaten persons, ~~or to chase, run after or jump at livestock, domestic animals or vehicles when such persons, livestock or vehicles are not on the property of the owner or keeper of the animal, or are upon the sidewalks, roads or public rights-of-way or are in any other location other than upon or adjacent to the real property belonging to the offending animal's owner or keeper.~~

(3) Destroy or damage any plant or animal or any other property or thing of value or to open a closed garbage container or scatter the contents thereof or to deposit excrement or other solid waste on the property of persons other than the owner of the offending animal.

(4) Be in the water of a designated swimming area of a public beach, unless the area is posted for use by animals.

(5) Be in a park, public beach, pond, fountain or upon any public playground or school grounds and not under the immediate physical restraint of a competent person by tether or leash of 10 feet or less in length; provided, that this section shall not apply to any police dogs or, service animals; provided further, that this section shall not apply to animal shows or exhibitions, or organized dog training classes where approval is secured from the director of the Lewis County department of community services public health and social services.

(6) Be a female animal in estrus (heat), while not confined in a building or proper enclosure which prevents the female animal from coming to come into contact with a male of the species, except for planned breeding, or to be a male animal which strays and gains access, breaks into a pen of to a female animal (properly confined) of the same species which is properly confined while that female animal is in estrus and subsequently impregnates or attempts to impregnate the female. [Ord. 1133C §1, 2006] This provision does not apply to planned or otherwise authorized breeding.

(7) (a) The animal control authority or any commissioned law enforcement officer or the Prosecuting Attorney may cite an owner or keeper upon probable cause that a violation of this section has occurred, whether or not the violation took place in the citing authority's presence.

(b) Any owner or keeper who is found, by a preponderance of the evidence, to have violated any portion of this section shall be subject to the civil penalties in LCC 1.20.040.

(c) IN addition, any violation of this section shall constitute a public nuisance.

(d) Upon probable cause that a violation of this section is presently occurring, the animal may be impounded under an administrative warrant issued pursuant to this chapter and held pending resolution of the matter.

6.05.030 Animals at large.

(1) It shall be unlawful for the owner or keeper a person having control or custody of any animal to negligently allow such animal to enter or trespass onto private property or of another without the express permission of the owner or caretaker of said property; or to allow said animal to run at large onto any public property within Lewis County.

(a) The animal control authority or any commissioned law enforcement officer or the Prosecuting Attorney may cite an owner or keeper upon probable cause that a violation of subsection (1) of this section has occurred, whether or not the violation took place in the citing authority's presence.

(b) Any owner or keeper who is found, by a preponderance of the evidence, to have violated any portion of subsection (1) shall be subject to the civil penalties in LCC 1.20.040.

(2) It shall be unlawful for theAn owner or keeper, or controller or custodian of an at-large of an animal to knowingly all that animal to be at-large; under subsection (1) of this section when that animal, which due to its size, habits, or natural propensities or instincts represents a potential threat of substantial bodily injury to people or damage to property and is not muzzled and under the physical restraint of a competent person of suitable age, discretion and capability to control such animal shall be guilty of a gross misdemeanor under LCC 6.05.090 and the animal shall be a public nuisance; provided, however, this section shall not apply to police dogs as defined in RCW 4.24.410.

(a) The Prosecuting Attorney or a fully commissioned law enforcement officer may cite an owner or keeper upon probable cause that a violation of subsection (2) of this section has occurred. A law enforcement officer may arrest the violator if the violation took place in the officer's presence or in the presence of another law enforcement officer. The animal control authority may not cite an owner or keeper under subsection (2) of this section.

(b) Any owner or keeper who if found, beyond a reasonable doubt, to have violated subsection (2) of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for a maximum term fixed by the court of up to ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars plus statutory assessments, or by both such imprisonment and fine. Further, upon probable cause that this crime has occurred, the animal may be impounded under an administrative warrant issued pursuant to this chapter and held pending resolution of the matter. Upon conviction, the owner or keeper shall be stripped by the Court of all ownership interest in the animal and the animal shall become the property of Lewis County and amy be humanely destroyed; provided, where the animal has been declared dangerous the animal shall be humanely destroyed and not held for adoption or sale and shall not become the property of Lewis County. Upon acquittal, the animal shall be returned to the owner or keeper.

6.05.040 Cruelty to animals.

It shall be unlawful for any person to:

(1) Recklessly cause an animal to experience substantial pain or suffering by i) killing, ii) injureinjuring, iii) torturetormenting, or iv) tormenting any domestic such animal. It shall be an affirmative defense that actions taken in violation of this subsection were otherwise lawful and justified under the circumstances.

(2) With criminal negligence Negligently fail to render aid cause or allow any animal to endure pain, suffering, injury or to fail or neglect to aid or attempt to alleviate substantial pain, suffering or injury he or she proximately has caused to any animal.

(3) With criminal Neglect negligence fail to provide adequate daily rations of food, water, air, light, space or shelter to any animal within his or her care, custody or control.

(4) With criminal negligence Tether, confine or restrain any animal in such a way manner as to permit said animal to become frequently entangled in such tether, or render said animal incapable of consuming food or water, or render such animal incapable of accessing to shelter, or to confine or restrain said animal in such a manner that it is forced to lie in its own feces or any other material detrimental to its health.

(5) Knowingly Aabandon any animal by dropping off or leaving said animal on the street, road, or highway, or in a public place or private property not belonging to the owner or keeper of the animal. It shall be an affirmative defense to a charge under this subsection that the animal was left i) at the designated animal shelter during the shelter's regular business hours and ii) in the immediate care of the Director of Public Health & Social Services or the director's designee or the Lewis County Sheriff or the Sheriff's designee.

(6) Recklessly confine an animal in a parked motor vehicle for more than fifteen minutes when the temperature outdoors is at or above seventy degrees Fahrenheit and when there is no competent person within the vehicle. It is an affirmative defense that the motor vehicle is a motorhome with working and adequate climate control.

(7) Any owner or keeper who is found, beyond a reasonable doubt, in a criminal proceeding to have violated any portion of this section shall be guilty of a gross misdemeanor, punishable by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred and sixty four days, or by a fine in an amount fixed by the court of not more than five thousand dollars plus statutory assessment, or by both such imprisonment and fine. Further, upon probable cause that this crime has occurred, the animal may be impounded under an administrative warrant issued pursuant to this chapter and held pending resolution of the matter. Upon conviction, the owner or keeper shall be stripped by the Court of all ownership interest in the animal and the animal shall become the property of Lewis County and may be humanely destroyed; provided, where the animal has been declared dangerous the animal shall be humanely destroyed and not held for adoption or sale and shall not become the property of Lewis County. Upon acquittal, the animal shall be returned to the owner or keeper.

6.05.050 Potentially dangerous and dangerous animals.

(1) Registration Required. It shall be unlawful for an owner of an animal declared dangerous by the animal control authority or the animal control division of another city, county or state to keep such animal unless such owner has procured a special registration. The special registration shall be obtained within

five working days of commencement of residence in Lewis County, or five working days following declaration by the animal control authority or, if the declaration is timely appealed pursuant to this section, within seven working days following the mailing of a decision affirming such determination; provided, that the animal control authority may grant an extension upon a showing of good cause.

(1) ~~Determination-Finding.~~ The animal control authority may find cause ~~to~~ and declare an animal potentially dangerous ~~or dangerous~~ if it has probable cause to believe that the animal falls within the definitions of this chapter. The animal control authority shall consider the following: a potentially dangerous animal under this chapter.

~~(a) Animal bite reports filed with the animal control authority or by health care providers with Lewis County Public Health; or~~

~~(b) Actions of the animal witnessed by any humane officer or law enforcement officer; or~~

~~(c) The designation by any animal control authority authorized under local or state laws or authority pursuant to Chapter 16.08 RCW; or~~

~~(d) Other relevant evidence.~~

(2) ~~Potentially Dangerous Animal Declaration~~Notice. The owner or keeper of an animal found and declared to be potentially dangerous shall be informed of such by the animal control authority within twenty calendar days of such finding and declaration. The notice shall be in writing. The notice shall be served upon the owner or keeper of the animal by i) mailing such notice to the owner's or keeper's last known address by certified mail, ii) personal service, or iii) if the owner or keeper cannot be reasonably located, by publication once a week for three consecutive weeks in a newspaper of general circulation within Lewis County, Washington.

~~(a) Service.~~ The declaration of a potentially dangerous or dangerous animal shall be in writing and shall be served on the owner in one of the following methods:

~~(i) Certified mail to the owner's or keeper's last known address, if known; or~~

~~(ii) Personally; or~~

~~(iii) If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.~~

(3) Content of Notice. The written declaration notice shall state, at least a minimum:

(a) A description of the animal;

(b) the name and address of the owner or keeper ~~of the animal~~, if known;

(c) the whereabouts location of the animal, if known if it is not in the custody of the owner;

(d) the facts upon which the declaration is based; and

(e) the following notice: "Your animal has been found to be and is declared to be potentially dangerous and due to its size, habits, or natural propensities or instincts represents a potential threat of substantial bodily injury to people or damage to property. If your animal again bites, attacks, endangers the safety of humans or animals, or is at large, your animal may be declared dangerous. This potentially dangerous animal designation has no legal effect other than to inform you that your animal represents a potential threat of substantial bodily injury to people or damage to property and action may be taken against you and your animal in the event that your animal bites, attacks, endangers the safety of humans or animals, or is at large in the future."

availability of a hearing in case the owner objects to the declaration and a request is made within five business days of notification;

(vi) The restrictions placed on the animal as a result of the declaration;

(vii) The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner.

(c) Appeal. The owner of an animal may object to the declaration of potentially dangerous animal by filing an appeal consistent with subsection (4)(e) of this section.

(4) Dangerous Animal Declaration.

(a) Informal Review. Prior to declaring an animal dangerous, the animal control authority shall notify the owner in writing that his or her animal has been identified as a dangerous animal.

(i) The notice shall inform the animal owner that he or she is entitled to an opportunity to meet with the authority to give, orally or in writing, any reasons or information as to why the animal should not be declared dangerous.

(ii) The notice shall also state the date, time, and location of the meeting, which must occur prior to expiration of 15 calendar days following delivery of the notice. The notice shall also contain the items in subsection (3)(b) of this section.

(iii) The owner may propose an alternative meeting date and time, but such meeting must occur within 15 calendar days of the notice's delivery.

(iv) After such meeting, the authority must issue its final determination, in the form of a written order, within 15 calendar days.

~~(b) If the authority declares an animal to be dangerous, the order shall include a recital of the authority for the action, a brief concise statement of the facts that support the determination, and the signature of the person who made the determination. The order shall also contain the items in subsection (3)(b) of this section.~~

~~(c) Both the notice and the order shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last address known to the authority.~~

~~(d) The animal control authority shall notify the Lewis County public health officer of all animals declared dangerous.~~

~~(e) If the owner of the animal wishes to object to the declarations of potentially dangerous or dangerous animal:~~

~~(i) The owner may, within five working days of notification, request a hearing by submitting a written appeal to the department of community development and by meeting the requirements of LCC 2.25.130, as hereafter amended, and paying the fee amount stated in that section.~~

~~(ii) The appeal shall be heard within 10 calendar days by the hearing examiner.~~

~~(iii) If the hearing examiner finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.~~

~~(iv) If the hearing examiner finds sufficient evidence to support the declaration, he/she shall uphold the declaration and may impose additional restrictions.~~

~~(v) A decision of the hearing examiner may be appealed by complying with the requirements of LCC 2.25.140 and as hereafter amended.~~

~~(f) Following service of the declaration, and pending appeals under this section, the animal control authority may, if circumstances require, impound the animal at the owner's expense, pursuant to the provisions of this section.~~

~~(5) Registration Fees. The initial registration fee, which is approved annually and published in the fee schedule in Title 18, includes two official signs with warning symbol for a dangerous animal; there shall also be an annual renewal fee.~~

~~(6) Dangerous Animals—Additional Requirements:~~

~~(a) The animal control authority shall issue a registration certificate to the owner of a dangerous animal only if the owner presents to the animal control authority sufficient evidence of:~~

~~(i) A proper enclosure to confine a dangerous animal and the posting of the premises with a clearly visible warning sign(s) that there is a dangerous animal on the property. In addition,~~

~~the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous animal; and~~

~~(ii) Ongoing veterinary care and current vaccinations against diseases potentially harmful to humans, unless a vaccine is not reasonably available or not USDA licensed for the particular species; and~~

~~(iii) Insurance:~~

~~(A) A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at least \$250,000, payable to any person injured by the dangerous animal; or~~

~~(B) A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least \$250,000, insuring the owner for any personal injuries inflicted by the dangerous animal.~~

~~(b) The owner of a dangerous animal shall not permit the animal to be outside the proper enclosure unless the animal is muzzled and restrained by a substantial chain or leash of 10 feet or less in length and under physical restraint by a person of suitable age, discretion and capability to control such animal. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.~~

~~(c) Any animal that is determined to be dangerous must be permanently identified. The county will determine the specific form of identification, but will make a good faith effort to accommodate the requests of the owner/keeper and the needs of the animal. Any cost associated with the identification procedure will be borne by the owner/keeper.~~

~~(7) Penalties. Notwithstanding the provisions of this code, and in addition to the penalties prescribed therein:~~

~~(a) Any animal declared dangerous shall be immediately confiscated if:~~

~~(i) The animal is not validly registered under this section;~~

~~(ii) The owner does not secure and maintain the surety bond or the liability insurance coverage required under this section;~~

~~(iii) The animal is not maintained in a proper enclosure;~~

~~(iv) The animal is outside of the dwelling of the owner, or outside of the proper enclosure, and not muzzled and restrained by a substantial chain or leash of 10 feet or less in length and under physical restraint of a responsible person.~~

~~(b) The owner of any animal confiscated under this subsection may recover such animal from the animal shelter division upon the payment of a civil penalty in the amount of \$250.00 plus \$7.00 per day for each day said animal has been in the control of the animal shelter division; provided, however, that the animal shall be destroyed in an expeditious and humane manner or placed with another person if the owner is not in compliance with subsections (7)(a)(i) through (iv) within 20 days of notification under subsection (7)(c) of this section, or has not redeemed the dangerous animal within 10 days of being notified by the animal control authority that such animal is under the control of the animal shelter division, as provided in subsection (7)(c) of this section.~~

~~(c) Upon confiscation of an animal, the animal control authority shall serve notice upon the animal owner in person or by regular and certified mail, return receipt requested. The notice shall specify the reason for the confiscation of the animal, that the owner is responsible for payment of the costs of confinement and control, and that the animal will be destroyed in an expeditious and humane manner if within 20 days the deficiencies that are the basis for the confiscation are not corrected or if the animal is not reclaimed within 10 days.~~

~~(d) The foregoing provisions for humane destruction of animals shall be subject to the appeal process in subsection (4)(e) of this section; provided, that a written appeal is filed with the animal control authority within five days of the impoundment.~~

~~(e) All individuals adopting a dangerous animal under subsection (7)(b) of this section shall first sign a release, pay to the county the redemption fee as listed in the schedule of fees in LCC Title 18, and shall comply with the requirements of subsection (6) of this section.~~

~~(8) Police Dogs. This chapter shall not apply to police dogs. [Ord. 1133C §1, 2006]~~

6.05.060 Impounding Dangerous Animals

An animal may be declared dangerous if the animal control authority can prove at a hearing by clear and convincing evidence that the animal meets the definition of a dangerous animal under this chapter.

6.05.070 Dangerous Animal Designation Hearing – Process

(1) Initiation of Process. The animal control authority may initiate the designation of a dangerous animal by giving the owner or keeper of such animal notice that the animal control authority has probable cause to believe that the animal is dangerous and that a hearing to determine whether the animal is dangerous will be held.

(2) Notice. Notice of a dangerous animal declaration hearing may be served by i) personal service on the animal's owner or keeper or ii) mailing, by certified mail, a copy of the notice to the owner or keeper's last known address. Notice must be given at least fourteen calendar days prior to the hearing, plus an

additional three calendar days if notice is served by mail. The date of service or deposit in the mail and the date of the hearing shall not be calculated as one of the fourteen calendar days nor as one of the additional three days if service is by mail. The hearing must be scheduled no more than 120 calendar days from the date of service, unless a continuance is warranted for good cause.

(3) Contents of Notice. The notice must, at a minimum, include the following:

(a) The date, time, and location of the hearing;

(b) Notice that the owner or keeper may be represented by a lawyer at the hearing;

(c) Notice that the owner or keeper is entitled to any report generated by the animal control authority related to the facts at issue;

(d) Notice that the owner or keeper may call witnesses, including by subpoena, to testify, and that he or she may cross-examine any witnesses called by the animal control authority;

(e) Notice that failure to appear for the hearing may result in a default judgment against the owner or keeper;

(f) Notice that testimony by affidavit may be admissible unless a written objection is received by the Director of Public Health & Social Services or the Director's designee at least five business days prior to the hearing, and;

(g) Notice that an adverse finding may be appealed in accordance with this chapter.

(4) The Director of Public Health & Social Services or the director's designee shall hold and preside over a hearing to determine whether an animal is dangerous. This presiding officer must not be the same individual who initiated the dangerous animal proceedings.

(5) Every portion of the hearing determining whether an animal is dangerous shall be open to the public in a manner consistent with open court proceedings and shall be held on the record, either by use of a court certified transcriptionist or by a reliable means of electronic audio recording. Such record shall be maintained by the Director of Public Health & Social Services or the director's designee per the record retention schedules published periodically by the Washington Secretary of State, but in no case for less than twenty years, and shall be a public record.

(6) The animal control authority may be represented by an employee of the animal control authority or by the Lewis County Prosecuting Attorney. The owner or keeper of the animal may represent him or herself, or may be represented by an attorney.

(7) The animal control authority and the animal's owner or keeper shall have an opportunity to call witnesses and present evidence and make argument. The presiding officer shall have the power to subpoena witnesses for the hearing at the request of the parties as outlined in this chapter.

(8) The animal control authority shall have the burden to prove by clear and convincing evidence that the animal meets the definition of a dangerous animal as defined in this chapter.

(9) Evidence. Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, unduly repetitious, unfairly prejudicial when considering its probative value, or a waste of time. The presiding officer shall refer to the Washington Rules of Evidence as guidelines for evidentiary rulings, but shall not be bound by those rules, unless otherwise required by law.

All testimony of parties and witnesses shall be made under oath or affirmation. Testimony by affidavit shall be admissible unless objected to, in writing, at least five business days prior to the hearing.

The presiding officer may take notice of facts of common knowledge which are generally known and capable of accurate and ready determination and are not reasonably in dispute. Such notice must be requested, on the record, by the parties before the presiding officer can take such notice.

The presiding officer shall have broad discretion to control the presentation of evidence and the procedure of the hearing in order to ensure a just and orderly hearing and determination.

(10) Failure of the owner or keeper of the animal to appear at the hearing shall result in a default judgment in favor of the animal control authority and shall result in the animal being declared dangerous without further inquiry. Upon such a failure to appear, the presiding officer may, in his or her discretion and for good cause delineated in a written order, continue the hearing not more than one time in lieu of entering a default judgment; provided that such continuance does not extend the date of the hearing beyond 120 days from the date of service unless the animal control authority agrees to the continuance.

(11) Upon the conclusion of the hearing, the presiding officer shall enter a written order, finding that the animal either is or is not dangerous. The order must be supported by written findings of fact and conclusions of law. The presiding officer may either issue the order immediately or after taking the matter under advisement, but in no case can the ruling be deferred for more than thirty calendar days after the conclusion of the hearing, except by stipulation of the parties or for good cause.

(12) The written order must be served on both parties either i) personally or ii) by certified mail to the party's last known address.

~~The animal control authority may apprehend any animals regulated hereunder acting or kept in a manner contrary to this chapter or Chapter 6.15 LCC, or any person may restrain any animal regulated hereunder that is running loose on his or her property or in the public right of way for purposes of pick-up or delivery to the local animal shelter.~~

~~(2) After such animals are apprehended, the impound facility shall determine whether an owner can be identified, and, if an owner is identified, the impound facility shall attempt to notify the owner of the animal within 48 hours by telephone or certified mail or direct personal contact that the animal has been impounded and may be redeemed at the designated animal holding facility.~~

~~(3) Any animal impounded pursuant to this chapter shall be held for the owner not less than 72 hours after delivery of said animal to the Lewis County animal shelter. The 72-hour period must include three business days that the Lewis County animal shelter is open for business. Exceptions to this holding policy would be for any animal that is severely injured, diseased, or in any other manner poses a threat to the health, safety and welfare of other animals at the Lewis County animal shelter.~~

~~(4) Any animal not redeemed by its owner during the prescribed time, or which is suffering from serious injury or disease, may be humanely destroyed, or at the discretion of the impounding authority may be held for a longer period and adopted by any qualified person, upon payment of reasonable medical, impound and holding costs.~~

~~(5) Provided, however, that domestic animals suitable for adoption shall not be adopted without first being sterilized.~~

~~(6) No live animals shall be used, sold or donated for experimentation purposes.~~

~~(7) The owner of any animal impounded pursuant to the provisions of this section may recover said animal(s) when all billable costs incurred in such impoundment are tendered to the impound facility. [Ord. 1214 §2, 2010]~~

6.05.080 Effect of Designation – Civil Penalty

(1) The owner or keeper of an animal which has been declared dangerous pursuant to this chapter or was declared dangerous in another jurisdiction with a substantially similar designation shall, within five business days of the designation in Lewis County or within five business days of moving into Lewis County from another jurisdiction, do one of the following:

(a) Yearly obtain a Certificate of Compliance from the Director of Public Health and Social Services or the director's designee, certifying compliance with the Dangerous Animal Designation requirements;

(b) Provide proof to the Director of Public Health and Social Services or the director's designee that the owner or keeper has humanely destroyed the animal; or

(c) Provide proof to the Director of Public Health and Social Services or the director's designee that the owner or keeper has permanently removed the animal from Lewis County and has identified the animal in compliance with this section.

(2) Certificate of Compliance. The Director of Public Health and Social Services or the director's designee shall issue a Certificate of Compliance certifying compliance with the Dangerous Animal Designation requirements under this chapter, upon proof that the owner or keeper of a dangerous animal has:

(a) paid the yearly registration fee in an amount as published in the fee schedule published pursuant to LCC Title 18;

(b) available a proper enclosure for the animal;

(c) provided the Director of Public Health and Social Services or the director's designee an affidavit stating that the animal will be maintained in the proper enclosure;

(d) posted clearly visible warning signs at all points of ingress and egress to the property that there is a dangerous animal on the property, including imagery that informs children of the presence of a dangerous animal;

(e) identified the animal in compliance with this section;

(f) provided the Director of Public Health and Social Services or the director's designee with veterinary records indicating that the animal is current on all vaccinations against diseases potentially harmful to humans or animals, unless a licensed, practicing veterinarian provides an affidavit indicating that specified vaccines are not reasonably available or not USDA licensed for the particular species; and

(g) current bond or insurance which extends for a period of not less than the duration of the Certificate of Compliance, and which covers injury or damage caused by the dangerous animal, whether on or off the owner or keeper's real property, in an amount not less than \$500,000.00 US Dollars. The insurance may be in the form of a surety bond issued by a surety insurer qualified under RCW 48.28 or in the form of a liability insurance policy issued by an insurer qualified under RCW Title 48.

(3) Identification. The owner or keeper of an animal which has been declared dangerous pursuant to this chapter or was declared dangerous in another jurisdiction with a substantially similar designation shall, within five business days of the designation in Lewis County or within five days of moving into Lewis County from another jurisdiction, cause the dangerous animal to be permanently identified and identifiable by tattoo on the animal in substantially the following form with numbers ascending from 0001: "LCDD0001". The Director of Public Health and Social Services shall assign the number for the animal in ascending order as animals are designated dangerous and shall keep a permanent record associating the dangerous animal with the specific Certificate of Compliance. The Director of Public

Health and Social Services may, but is not required to, provide for alternative methods of identification if appropriate and upon request of the owner or keeper.

(4) Penalty. Any owner or keeper who is found, by a preponderance of the evidence, to have violated any portion of this subsection shall be subject to the civil penalties in LCC 1.20.040. Upon probable cause that a violation has occurred, the animal may be impounded under an administrative warrant issued pursuant to this chapter and held pending resolution of the matter. Additionally, upon a finding of violation, the owner or keeper shall be stripped by the Court of all ownership interest in the animal and the animal shall be humanely destroyed. If no violation is found, the animal shall be returned to the owner or keeper, but the dangerous animal designation shall remain.

6.05.070 Injured or diseased animals.

~~(1) Any animal suffering from serious injury or disease may be humanely destroyed by the impounding authority; provided, that the impounding authority notify the owner, if the owner is known, prior to destroying the animal.~~

~~(2) The impounding authority must document the nature of the injury or disease and record the date that the animal was destroyed. [Ord. 1133C §1, 2006]~~

6.05.080 Redemption.

~~(1) Any animal impounded pursuant to the provisions of this chapter may be redeemed upon payment of the redemption fee as herein provided and upon evidence the violation has been corrected.~~

~~(2) The redemption fee for an animal is the cost of impoundment and care of the animal. The fee is in the amount set in the schedule of fees published in Title 18 of this code.~~

~~(3) In the event livestock are not claimed or redeemed by the owner, they may be sold at public auction with the proceeds of the sales used to offset the county's cost of care and deposited to the general fund with the remainder to the owner, if known, or may be adopted at the discretion of the Lewis County animal shelter. [Ord. 1133C §1, 2006]~~

6.05.090 Violation – Penalties.

~~(1) Any violation of LCC 6.05.020 and 6.05.030(1) shall be subject to the monetary penalties in LCC 1.20.020 and 1.20.040.~~

~~(2) Any violation of LCC 6.05.030(2) and 6.05.040 through 6.05.060 shall be a gross misdemeanor punishable as provided in RCW 9A.20.021. [Ord. 1133C §1, 2006]~~

6.05.090 Effect of Designation – Criminal Penalty

(1) It shall be unlawful for the owner or keeper of a dangerous animal to permit by criminal negligence the animal to:

- (a) Be outside of the proper enclosure unless the animal is i) muzzled in such a manner as to prevent the animal from biting any person or property and ii) restrained by a sufficient leash not more than six feet in length, and iii) under the immediate control of a competent person; or
- (b) Cause any degree of damage to i) a person, ii) an animal not owned by the owner or keeper, whether domestic, feral, or wild, iii) personal property not owned by the owner or keeper, or iv) real property not owned by the owner or keeper.

(2) Any owner or keeper who is found, beyond a reasonable doubt, to have violated any portion of this section shall be guilty of a gross misdemeanor, punishable by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars plus statutory assessments, or by both such imprisonment and fine. Additionally, upon conviction, the owner or keeper shall be stripped by the Court of all ownership interest in the animal and the animal shall be humanely destroyed. Upon acquittal, the animal shall be returned to the owner or keeper, but the dangerous animal designation shall remain.

(3) Upon probable cause that this crime has occurred, the animal may be impounded under an administrative warrant issued pursuant to this chapter and held pending resolution of the matter.

6.05.100 Administrative Impoundment Warrant – Impounding Dangerous Animal

(1) A judge of a Superior Court or a judge of the Lewis County District Court upon proper oath or affirmation showing probable cause, may issue an administrative warrant for the purpose of entering and inspecting real or personal property to effectuate the seizure and impoundment of an animal kept or acquired in violation of this chapter. For purposes of the issuance of administrative warrants, probable cause exists upon a showing under oath or affirmation that the owner or keeper of an animal is in civil or criminal violation of this chapter.

(2) A warrant shall issue only upon application by sworn affidavit of the Prosecuting Attorney or his or her deputy or a fully commissioned law enforcement officer having knowledge of the facts alleged, and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he or she shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and a description of the animal to be seized and impounded. The warrant shall:

(a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(b) Be directed to any peace officer in Lewis County, Washington, to execute it;

(c) Command the person to whom it is directed to enter the area, premises, building, or conveyance identified for the purpose of seizing and impounding the animal;

(d) Identify the animal to be seized and impounded; and

(e) Direct that it be served and designate the judge to whom the warrant shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten calendar days of its issue date unless, upon a showing of a need for additional time, the court orders otherwise. If the animal is impounded pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the animal is taken, together with a receipt for the animal taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any animal taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the animal was taken and to the applicant for the warrant.

(4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the court.

(5) Notwithstanding any other provision in this chapter, the availability of an administrative warrant shall not be construed to limit the ability of a court of competent jurisdiction to issue a warrant or other order which would otherwise ordinarily be available.

6.05.110 Impoundment and Disposition of Animals Held by Lewis County

(1) Notwithstanding any other provision in this chapter, an animal may be impounded by:

(a) The animal control authority or any commissioned law enforcement officer if:

(i) The animal control authority or law enforcement officer is acting at the direction of a valid warrant or other court order;

(ii) The animal is on public property and there is probable cause to believe that the animal is in or is presently being kept in violation of any law or is at large or the animal to be impounded is on public property and the animal is clearly abandoned; or

(iii) The animal is on real property and there is probable cause to believe that the animal is in or is presently being kept in violation of any law and the animal control authority or law enforcement officer has the express, written permission of the property owner to enter the property and seize the animal.

(b) Any person if the animal is at large and is:

i) on the person's own property;

ii) on public property and the animal is threatening any person or property or animal; or

iii) being pursued by the animal control authority or law enforcement officer and the animal control authority or law enforcement officer requests assistance.

(2) (a) Nothing in this section is to be construed as allowing anyone other than a fully commissioned law enforcement officer to forcibly seize an animal from the immediate presence of any other person claiming or apparently asserting by word or action an interest in the animal.

(b) Any time an animal is impounded, the animal must be delivered to the Director of Public Health and Social Services or the director's designee or the Lewis County Sheriff or the Sheriff's deputy within twenty-four hours. The Lewis County Sheriff and the Director of Public Health and Social Services may designate, together or separately, where or to whom animals are to be delivered for impoundment. If the location is other than the designated animal shelter, the animal must then be delivered to the animal shelter within one business day by the designated person receiving the animal.

(3) Once an animal has been impounded at the animal shelter, the Director of Public Health and Social Services or the director's designee shall take reasonable steps to ascertain the contact information of the animal's owner or keeper and notify the owner or keeper within forty-eight hours of receipt of the animal that the animal has been so impounded and that the animal may be redeemed from the animal shelter if redemption is authorized under the circumstances. Notice may be given to the owner or keeper by any means reasonably calculated to give the owner or keeper actual notice.

(4) (a) Any animal impounded or held by the animal shelter must be held for the owner or keeper for a period of at least three business days during which the animal shelter is open for regular business. During this holding period, the animal's owner or keeper may redeem the animal, where redemption is authorized, by claiming the animal and paying Lewis County for all costs actually incurred by Lewis County in the impoundment and holding process, in an amount set in the schedule of fees published in or pursuant to LCC Title 18 effective on the date of impoundment, plus veterinary costs which may be greater and shall be determined by reference to billing receipts from the veterinary clinic providing services, and plus the actual costs of transportation of the animal. In the event that the animal is not redeemed by the owner or keeper, the animal may be humanely destroyed at the expiration of the three business days, or at the discretion of the Director of Public Health and Social Services or the director's designee for good cause the animal may be held on behalf of the owner for longer than three business days.

(b) Subsection (a) of this provision does not apply when an animal has been seized and impounded pursuant to a criminal, civil, or administrative warrant issued by a court of competent jurisdiction. In such cases, the animal must be held pursuant to the warrant and in compliance with all applicable law.

(5) Notwithstanding any other provision of this section, an animal held by the animal shelter under subsection (4) may be humanely destroyed at the discretion of the Director of Public Health and Social Services or the director's designee if the animal poses a health or safety risk to people or property at the

animal shelter or the animal is suffering from a condition likely to result in death or the need for immediate veterinary care likely to exceed \$100.00 in costs. If the animal is to be humanely destroyed under this provision and the identity and contact information of the owner or keeper of the animal is known or reasonably ascertainable, there must be a reasonable attempt to notify the owner or keeper of the animal of the intent to destroy the animal, and the owner or keeper must be given the opportunity to claim the animal within eight business hours, unless providing such opportunity would constitute animal cruelty under any applicable law, in which case the applicable facts must be documented and the humane destruction may take place immediately and without notice. This provision does not apply to animals being held pursuant to any warrant or as evidence in a criminal case.

(6) Adoption and Sale.

(a) In lieu of humanely destroying an animal as authorized under this chapter, the Director of Public Health and Social Services or the director's designee may declare the animal to be property of Lewis County and offer the animal for adoption, or in the case of livestock either offered for adoption or sold at public auction with the proceeds from any such auction deposited in Lewis County's general fund; provided, that no live animal shall be adopted out or otherwise transferred for the purpose of experimentation; and provided further that an animal declared dangerous must be humanely destroyed and may not become the property of Lewis County or sold or adopted out to a third party.

(b) In the event that Lewis County becomes the owner of an animal by a means not otherwise specified in this chapter, the animal may be held for adoption, and in the case of livestock sold at public auction or held for adoption; provided that a dangerous animal may not be held for adoption or sale and must be humanely destroyed within one business day. Alternatively, the animal may be humanely destroyed at the discretion of the Director of Public Health and Social Services or the director's designee; provided that doing so would not violate any law, order, or code provision.

(c) In the event that a dog or cat is to be held for adoption, the animal must be sterilized prior to adoption.

(d) In the event that an animal is to be held for adoption, Lewis County may charge an adoption fee in an amount to be set in the schedule of fees published pursuant to LCC Title 18, as adopted by the Lewis County Board of County Commissioners.

(e) Proceeds from any sale of livestock must be placed in Lewis County's general fund.

(7) No animal being held by Lewis County which is the subject or res of any court action may be destroyed or held for adoption or sold except by court order, or as otherwise authorized by law. All such animals must be held and maintained in the animal shelter and provided veterinary care, as needed.

6.05.120 Subpoenas

(1) The Director of Public Health and Social Services or the director's designee is authorized to issue subpoenas for witnesses related to Dangerous Animal Hearings. Such subpoenas shall be valid for the named witness when the named witness is served within the unincorporated areas of Lewis County. Witness fees shall be paid by the party requesting the subpoena in an amount consistent with witness fees assessed in civil matters in the Lewis County District Court; provided that no party to the action may collect a witness fee.

(2) Every subpoena shall identify the party requesting issuance of the subpoena and shall state the name of the Director of Public Health and Social Services or the director's designee and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control.

(a) A subpoena to a person to provide testimony at a hearing shall specify the time and place set for hearing.

(b) A subpoena duces tecum requesting a person to produce designated books, documents, or things under his or her control shall specify a time and place for producing the books, documents, or things. That time and place may be the time and place set for hearing, or another reasonably convenient time and place in advance of the hearing.

(3) A subpoena may be served by any suitable person over 18 years of age who is not a party to the action, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit or declaration under penalty of perjury.

(4) The presiding officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (a) quash or modify the subpoena if it is unreasonable and oppressive or (b) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(5) If a witness under subpoena fails or refuses to attend the hearing, provide testimony, or produce the items as commanded, that witness may be cited by the presiding officer. If that witness is found, by a preponderance of the evidence, to have violated a subpoena under this section, he or she shall be subject to the civil penalties in LCC 1.20.040.

6.05.140 No Effect on Civil Liability

Nothing in this Chapter is intended to affect the rights or liabilities of any party to a civil action other than the civil actions expressly created by this Chapter.