

ORDINANCE 1280

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

**AN ORDINANCE TO AMEND CHAPTER 6.05, "ANIMALS,")
OF THE LEWIS COUNTY CODE, AND TO GRANT FURTHER)
DISCRETION TO THE JUDGES OF THE DISTRICT COURT)**

WHEREAS the public interest is best served by permitting a District Court Judge, in a limited circumstance, to permit a dangerous dog not to be euthanized.

NOW THEREFORE the Lewis County Board of County Commissioners hereby ordains that Lewis County Code Chapter 6.05, "Animals," be amended as follows, effective immediately:

6.05.155 Judicial removal of dangerous animal designation.

(1) Any person claiming an interest in an animal which has been designated as a dangerous animal pursuant to the provisions of this Chapter may file an action in the District Court of Washington for Lewis County seeking an order rescinding that designation.

(a) The District Court is requested to hear any action brought pursuant to this Section on an expedited basis.

(b) Such an action may not be brought prior to the expiration of the period in which to bring an appeal pursuant to Sections 6.05.150 of this Code. Failure to bring such an appeal shall not bar any person from instituting a proceeding pursuant to this Section 6.55.155.

(c) Lewis County shall be named as the Defendant in such an action. Any person whom the Plaintiff knows to claim an interest in the animal also shall be named as a Defendant.

(i) With 10 days of service of the Complaint upon Lewis County, it shall mail a copy thereof to any person

whom it believes may claim, or may have claimed, or may wish to claim an interest in the animal. Lewis County then shall file a proof of service with the Court.

(d) Any person claiming an interest in the animal may, at any time prior to a hearing on the merits, join as a party Defendant by filing a notice of appearance and serving copies thereof upon each of the other parties to the proceeding. Such person then shall file a proof of service with the Court.

(e) Lewis County shall not destroy the animal, or cause the animal to be destroyed, during the pendency of the proceeding, unless its destruction is required for reasons unrelated to its allegedly dangerous propensities.

(2) The Court shall determine whether the animal in question is a dangerous animal, as defined in sub-sections 6.05.010(9) and (20) of this Code.

(a) The Court shall make its determination after consideration of all testimonial and documentary evidence admissible under the standard set out in RCW 34.05.452.

(b) The Court shall not be limited to consideration of evidence presented at the hearing referred to in Section 6.05.070 of this Code. The Court may consider evidence which was unavailable, or which was not made available, to the hearing officer at the time of the dangerous animal designation hearing referred to in LCC 6.05.070. The Court may consider evidence which only became available subsequent to the hearing, including but not limited to evidence of the present behavior, character, and disposition of the animal.

(3) Following its hearing the Court shall rule as to whether the animal is or is not a dangerous animal at the present time.

(a) If the Court rules that the animal is not a dangerous animal, then the Court shall issue an order rescinding Lewis County's designation of it as a dangerous animal. A copy of that order shall be transmitted by the Clerk of the District Court to the County's Director of Health and Social Services, who shall supplement the County's records accordingly.

(4) If the Court finds that the animal is not a dangerous animal, then the Court shall order the County not to destroy it.

(5) If the Court finds the animal is not a dangerous animal, then the Court shall order:

(a) that the animal –

(i) be the property of the Plaintiff, and

(ii) be placed by Lewis County into the care and custody of the Plaintiff.

(b) If more than one party (whether a party plaintiff or a party defendant) claims an interest in the animal, then the Court shall adjudicate upon such claims and determine which party shall be awarded ownership of the animal. The Court may make such determination *ex aequo et bono*.

(6) If the Court rules that the animal is a dangerous animal, then the Court shall order that it be humanely destroyed by Lewis County. In that event the animal shall be humanely destroyed no later than the second business days following the date of service of the Court's Order upon the County.

(7) In the alternative to the order required by sub-section (6) immediately above:

(a) The Court may rule that the animal currently harbors a potential to do harm to people or to domestic animals, but can be

released safely to a party to the action. The Court then shall order the animal to be released to that party.

(b) The Court may rule that the animal currently is likely to cause harm to people or domestic animals, but can be released safely to a party to the action. The Court then shall order the animal to be released to that party.

(c) The Court may rule that the animal currently harbors a potential to do harm to people or to domestic animals, but can be housed and maintained safely, under specified conditions. In such event the judge may release the animal to a party to the action, subject to proof of compliance with such conditions as the Court may deem appropriate.

– or –

(d) The Court may rule that the animal currently is likely to cause harm to people or domestic animals, but can be housed and maintained safely, under specified conditions. In such event the judge may release the animal to a party to the action, subject to proof of compliance with such conditions as the Court may deem appropriate.

~~(7)~~ (8) In any action pursuant to this Section each party shall bear its own costs, disbursements, and attorney fees.

~~(8)~~ (9) This section shall apply retrospectively to all animals which have been designated as dangerous animals and which are in the possession of Lewis County's Animal Shelter on the date of its enactment.

~~(9)~~ (10) If any provision of this Section is or comes to be in direct conflict with any constitutional or statutory provision of the State of Washington or of the United States, that provision shall be deemed inoperative and null and void

insofar as it may conflict, and shall, if possible, be deemed modified to conform to such constitutional or statutory provision.

SECTION 2 – EFFECTIVE DATE: This Ordinance shall be of effect with respect to all animals in the custody of Lewis County on the date of its enactment.

PASSED IN REGULAR SESSION THIS 2ND DAY OF OCTOBER, 2017.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

By: J. David Fine, Deputy Prosecutor

Gary Stamper, Chair

ATTEST:

Edna J. Fund, Vice Chair

Rieva Lester, Clerk of the Board

Robert C. Jackson, Commissioner