



ORANGE COUNTY
NORTH CAROLINA
ANIMAL SERVICES

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Potentially Dangerous Dog & Vicious Appeal Hearings:
Frequently Asked Questions

Key Questions

What declarations can be appealed?

North Carolina General Statute (67-4.1) requires that a dog that has displayed certain behaviors be deemed potentially dangerous and be held to a strict standard by their owners or keepers. The same statute requires that a hearing be made available to a dog owner to appeal such a declaration. Owners of dogs that have been declared potentially dangerous by Orange County Animal Services have three (3) days from the notice of such a determination to request an appeal the decision.

Under Orange County's Animal Ordinance (4-42) a dog may be declared a vicious animal because it has been declared potentially dangerous under state law and/or because it has displayed certain behaviors. The ordinance requires that a hearing be made available to a dog owner to appeal such a declaration and owners have five (5) days from the notice of such a determination to request an appeal except in Carrboro (see below).

Note that some declarations will be made both under North Carolina General Statute and Orange County's Animal Ordinance. In these cases, an animal will have been declared both potentially dangerous and vicious, and the owner must appeal both declarations in order to have each of them reviewed. In those cases, one (dual) request may be made via email/letter and a single hearing will be held for both declarations.

Who hears and decides the appeal?

Except for residents of Carrboro (see below), an appeal is provided by a panel composed of county residents from the Animal Services Hearing Panel Pool, a body appointed by the Board of County Commissioners. These individuals come from different parts of the county and they have different backgrounds. They are not employed by Animal Services.

Appeals made by residents of Carrboro are heard by the Town's Animal Control Appeal Board. The Animal Control Appeal Board consists of town residents who are appointed by the Carrboro Board of Aldermen. Except for being heard by the town's appeal board rather than an Animal Services hearing panel, the process of review is similar for Carrboro and other county residents.

What is the timetable for appeals?

As suggested earlier, the timetable is different under North Carolina General Statute and Orange County's Animal Ordinance. A potentially dangerous dog appeal request must be made within three (3) calendar days of being notified that your dog has been so declared. A vicious animal declaration appeal request must be made within five (5) calendar days of your dog being so declared, except for Carrboro residents who must make this appeal within three (3) calendar days.

Animal Services must receive an appeal request within those time frames. If an appeal request is received after the time period granted in law, there is no legal obligation to provide the requested hearing, and there should be no expectation that a hearing will be held.

Once an appeal request is received, Animal Services staff will move quickly to schedule a hearing. Both state and local law require that the hearing be scheduled within ten (10) days of the date the appeal was received by Animal Services. This does not necessarily mean that the hearing will be conducted within 10 days. Animal Services staff is conscientious about ensuring that the hearing is held in a timely manner but the actual hearing date does depend upon the availability of members of the appeals body, the appellant and key witnesses. Please note that the dog(s) must be kept in accordance with the regulations/requirements of the declaration during this time.

What is the purpose of the appeal hearing?

The purpose of the hearing is very specific. It is to determine whether the facts of a particular incident are consistent with the definition of a potentially dangerous dog under state law or the

definition of a vicious animal under local law. The appeals body will review information received from Animal Services staff, the animal owner, and any alleged victims (or owners of animal victims). If the appeals body finds that the facts of the case support the determination by a preponderance of the evidence (or the greater weight of the evidence), it will uphold the determination. If the facts of the case do not support the determination, the appeals body will overturn the determination and the dog will no longer be declared potentially dangerous and/or vicious.

Information about your dog's character and past behavior are not relevant in the hearing and will not be considered. In addition, information about whether your dog was acting in a way consistent with normal dog behavior is not relevant. Appellants are asked to refrain from being a "character witness" for the declared dog and they may be instructed to desist from doing so in an actual hearing.

Other Questions

- *Should I bring the dog deemed potentially dangerous and/or vicious to the hearing?*
No. No animals, other than service animals, should be brought to the hearing.
- *Why is the term vicious being used to describe a dog?* The word "vicious" is a legal term that has been included in the local ordinance to represent a particular legal concept. Animal Services staff and members of the Hearing Panel Pool understand that the word is a legal term and that it rarely describes the character or inherent nature of a particular dog.
- *What should I bring to a hearing?*
Bring your copy of the packet sent to you by Animal Services, along with any additional documents or witnesses that may offer new evidence about the case or the facts of the incident itself. Only witnesses that can add to the facts of the specific incident will be of assistance to the case, not character witnesses for the animals in question. Anything submitted at an appeal becomes part of the official record and copies should be supplied for all parties attending (at least 10).
- *What if this is the only time my dog has ever acted in this way? Will this help my case?*
This determination and the subsequent appeal is based solely on the incident that triggered it. The applicable state and local laws do not require or allow for evaluations of the animal's previous behavior.

- *What can I do if I am unhappy with the appeal body's decision?*

Anyone unhappy with the findings of the appeals body has the right to file an appeal with the NC Superior Court. Those appeals must be filed within 10 days of the appeal body's decision.