

PROCEDURES FOR THE LEGALLY SUFFICIENT CONDUCT OF QUASI-JUDICIAL HEARINGS

Upon appeal from the Animal Services Department Director's (or deputy director) Declaration that a dog or animal is dangerous or vicious and upon compliance with all procedural requirements of the Orange County Code of Ordinances, Chapter 4, the procedures herein shall be followed in conducting such appeal.

- A. The Chair opens the hearing.
 1. The Chair ensures the Hearing Panel has the hearing materials.
 2. The Chair explains the format of the hearing:
 - i. Presentation of evidence or evidentiary statement by the Animal Services Department.
 - ii. Presentation of evidence or evidentiary statement by the Appellant.
 - iii. Evidentiary statement of the Director regarding the Declaration.
 - iv. Deliberation and Decision of the Hearing Panel.
 3. The Chair explains the burden of proof rests with the Animal Services department. The burden of proof is a preponderance of the evidence.
 - i. A preponderance of evidence is defined as "the greater weight of the evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other."
 4. The Chair swears or affirms all individuals offering testimony.
- B. Animal Services staff presents evidence in support of the Director's Declaration.
 1. The investigating Animal Control Officer ("ACO") presents evidence related to the investigation.
 - i. During the ACO's presentation of evidence the ACO will present written statements of all victims and witnesses who are present. Written statements may not be entered into evidence if the individual who made the statement is not present.

- ii. The Appellant may cross examine the ACO. The Appellant may question the victim or other witnesses with regard to the subject matter of their affidavits.
 - iii. The Hearing Panel may ask additional questions of the ACO, victims, and witnesses.
 - 2. The Director or Deputy Director should make an evidentiary statement he or she Declared the dog or animal dangerous or vicious based on the evidence presented to him or her by the ACO.
 - i. The Appellant may then cross examine the Director or Deputy Director as the case may be.
 - ii. The Hearing Panel may ask additional questions of the Director or Deputy Director as the case may be.
- C. The Appellant may present evidence or make an evidentiary statement to the Hearing Panel to demonstrate and prove the Declaration should be overturned due to error by the Director or Deputy Director or insufficiency of the evidence on which the Director or Deputy Director based the Declaration.
 - 1. One (1) representative of the Animal Services Department may cross-examine the Appellant.
 - 2. The Appellant may offer a brief rebuttal to the representative's cross examination.
 - 3. The Hearing Panel may ask additional questions of the Appellant.
- D. Deliberation. Once Deliberation begins further evidence may not be received and comments from parties or attorneys are out of order. The Hearing Panel should deliberate in open session. The only lawful reason for a quasi-judicial panel to go into closed session is for consultation with an attorney advising or counseling the panel on questions of law. Questions of fact and merits of the case may not be discussed in closed session. See Chapter 143 Section 318, North Carolina General Statutes.
- E. The Chair announces the decision of the Hearing Panel, explains appeal rights of the parties, and adjourns the hearing.