



ORANGE COUNTY
NORTH CAROLINA
ANIMAL SERVICES

1601 Eubanks Road
Chapel Hill, NC 27516

<http://orangecountync.gov/animalservices>

phone: (919) 942-7387
fax: (919) 918-2393

**Potentially Dangerous Dog & Dangerous Animal 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. The time period begins on the first full day after receipt of the Notice and does not include Saturdays, Sundays, or holidays.

Under Orange County's Animal Ordinance (4-42) a dog may be declared a dangerous 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. The time period begins on the first full day after the Declaration has been issued and does not include Saturdays, Sundays, or holidays.*

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 a potentially dangerous dog and a dangerous animal, 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?

* See NC General Statute 1A-6

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 made under state law must be made within three (3) days of being notified that your dog has been so declared. A dangerous animal declaration appeal request made under Orange County's Ordinance must be made within five (5) days of your dog being so declared (except for Carrboro residents who must make this appeal within three (3) days). The time period begins on the first day after the notification of the declaration. In counting the days, do not include Saturdays, Sundays, or holidays.* If the notice was mailed then time period is extended by three 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 dangerous 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 by a preponderance of the evidence (or the greater weight of the evidence) that the facts of the case support the determination, it will uphold the determination. If the facts of the case do not

* See NC General Statute 1A-6

support the determination, the appeals body will overturn the determination and the dog will no longer be declared a potentially dangerous dog and/or a dangerous animal.

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.

What can I do if I don't agree with the appeal board's decision?

Anyone unhappy with the results of an appeal hearing has the right to file another appeal with the NC Superior Court. Pursuant to N.C. Gen. Stat. § 67-4.1(c) and Section 4-53 of the Orange County Animal Ordinance, both the "potentially dangerous dog" declaration made under state law and the "dangerous animal declaration" made under the county ordinance can be appealed by filing a notice of appeal and petition for review within ten (10) days of the final decision of the hearing panel. The time period begins one day after the hearing panel's decision, and *does* include weekends and legal holidays, unless the courthouse is closed for transactions on the final day, in which case the period for filing runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. The filing of the notice of appeal and petition for review must be accompanied by a Superior Court filing fee of \$200, payable to the Orange County Clerk of Superior Court.

The appeal hearing before Superior Court is a *de novo* hearing, where a judge will hear and consider the evidence as if no hearing had taken place before the hearing panel, and make his or her own decision without any presumption in favor of the hearing panel's decision. You are encouraged to seek advice from an attorney when pursuing an appeal to Superior Court.

Are any other reviews available?

Another review exists under county ordinance but there is none under state law. If you do not appeal the dangerous animal declaration made under the Ordinance, or the appellate board upholds the declaration, the Ordinance provides a means for the Animal Services Director to review the declaration after approximately eighteen (18) months.

Pursuant to Section 4-42(k) of the Orange County Animal Ordinance, beginning six months after the first annual inspection of the secure enclosure, the owner of an animal declared dangerous may annually request review of the declaration by completing an application provided by Animal Services and submitting an assessment of the animal by a competent person accredited by the Certification Council for Professional Dog Trainers or another recognized and approved body.

Based upon the application, assessment outcomes and other criteria described in Section 4-42(k), the Animal Services Director may revoke the declaration. The Animal Services Director is not, however, able to revoke the declaration of a dog as a "potentially dangerous dog" made pursuant to North Carolina's dangerous dog law.

The Animal Services Director will issue you written reasoning for his or her decision to revoke the declaration or not following the review. If your animal's declaration is not revoked, you may apply for review annually thereafter, and the Animal Services Director will notify you on what day you may apply again.

Other Questions

- *Should I bring the dog deemed potentially dangerous to the hearing?*
No. No animals, other than service animals, should be brought to the hearing.
- *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 and 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.