

## **Dangerous Dog Hearings: Examples of County Ordinances**

### **Catawba County**

#### **Sec. 6-132. - Appeal procedure for dangerous and potentially dangerous dogs.**

(a) The owner of a dog which has been declared dangerous or potentially dangerous pursuant to section 6-131 has the right to appeal the determination by filing a written objection, stating the grounds for the appeal, with the animal services division within three working days of receipt of the dangerous or potentially dangerous dog determination letter. If the owner fails to file the written objection, a level 1 dangerous dog shall become the property of the county and shall be disposed of in accordance with this chapter and a level 2 dangerous dog or a potentially dangerous dog must meet the requirements of this article.

(b) The dangerous dog appellate board, as designated by the county, shall hold a hearing within ten working days of the filing of the written objection. The person requesting the appeal will be notified of the decision within ten working days following the final decision of the appellate board. Any appeal from the final decision of the appellate board shall be to superior court by filing a notice of appeal and petition for review within ten working days of receipt of the final decision of the appellate board. This written notice must be served on animal services as well as the clerk of superior court.

(c) The dangerous dog appellate board shall be composed of five regular members and two alternates. At least one of the regular members shall be a licensed veterinarian. Members and alternates must be residents of Catawba County and appointed by the board of commissioners to serve until a successor is appointed. A quorum of at least three members (any combination of regular members and alternates) must be present at an appellate board hearing in order for the appellate board to conduct business. The members of the dangerous dog appellate board shall be expected to disclose any prior personal involvement they have had with the case or other conflicts of interest, and upon a motion of the board, the member making the disclosure may be recused.

(d) All testimony offered at the appellate board hearing held pursuant to this chapter shall be given under oath and recorded by audio recording. The hearing shall be open to the public, and the person requesting the appeal may be represented by an attorney.

(e) The assistant director of emergency services shall have the burden of demonstrating that this chapter has been violated. The person requesting the appeal will be given an opportunity to prove this chapter has not been violated. The assistant director of emergency services will be given a final opportunity to clarify any conflicts, ambiguities or inconsistencies created by or arising from the statements or evidence. The dangerous dog appellate board may ask questions at any time during the appeal hearing and may request additional evidence from either party, including continuing the hearing in the interest of fairness.

(f) Any decision rendered by the dangerous dog appellate board applies only to the violation(s) appealed and does not prevent the animal services division from enforcing a subsequent violation of the same provision or any other provision of this chapter. If the dangerous dog appellate board upholds or affirms the decision of the assistant director of emergency services the owner is responsible for all applicable boarding fees, redemption fees and civil penalties.

(g) If the owner of the dog does not file a written appeal of the dangerous dog appellate board within the time period required by law or if the owner of the dog does not comply with the confinement requirements as specified in section 6-133 within 21 calendar days of the final decision of the dangerous dog appellate board or superior court, then the dog becomes the property of the county.

## **Cumberland County**

### **Sec. 3-33. - Determination that a dog is potentially dangerous; appeals.**

- (a) Generally. Upon receipt of a report submitted in accordance with section 3-32, or upon the receipt of any other complaint, or when he has reasonable suspicion that a dog is potentially dangerous, the director or his designee shall make a determination whether or not such dog is a potentially dangerous dog. Any determination that a dog is potentially dangerous shall be made in a writing stating the facts relied upon by the director to make his determination. The written declaration shall be personally delivered to the owner of the subject dog or shall be mailed by certified mail, return receipt requested, to the owner. If the determination is made that the subject dog is potentially dangerous, the written determination shall order compliance with the appropriate provisions of this article and the director may impose reasonable conditions to maintain the public health and safety. The director may pursue such other civil or criminal penalties and remedies as authorized by this chapter or state law.
- (b) [Determination by director.] If, at any time after the receipt of any report or complaint made pursuant to section 3-32, the director determines that the conditions under which the subject dog is being kept or confined do not adequately protect the public health or safety, the director shall require that the subject dog be impounded at the department's shelter until completion of the investigation and any appeal of the decision of the director.
- (c) Appeals from determinations.
  - (1) The owner of any dog determined by the director to be potentially dangerous may appeal the decision of the director to the appeal board within three business days of receiving notice of the determination. Appeal to the appeal board may be taken by filing written objections to the director's determination with the clerk for the appeal board.
  - (2) The appeal board shall schedule and hear such appeal within ten days of the filing of the written objections or at such later time as the appellant consents.
  - (3) The vote of the appeal board shall be taken, and the announcement of its decision shall be made, in an open public meeting. A written statement of the decision of the appeal

board shall be delivered to the director and the appellant. The notice shall be sent by certified mail, return receipt requested, and filed concurrently with the director and the Cumberland County Attorney.

- (d) [Conduct of appeal.] An appeal hearing before the appeal board shall be conducted as follows:
- (1) The hearing shall be subject to the open meetings law, and the required notice shall be posted and given as applicable;
  - (2) The chairperson of the appeal board shall preside at the hearing;
  - (3) The director shall be represented by the county attorney;
  - (4) The county attorney shall present the director's case;
  - (5) The appellant may be represented by an attorney;
  - (6) The director and the appellant may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
  - (7) The chairperson of the appeal board shall rule on the admissibility of any evidence and on any procedural issues that might arise;
  - (8) The director and the appellant shall be entitled to cross-examine any witnesses;
  - (9) The hearing shall be quasi-judicial in nature and all testimony shall be under oath;
  - (10) The appellant shall be entitled to obtain a transcript of the proceeding at his own cost;
  - (11) The appeal board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
- (e) [Purpose of appeal.] The purpose of the hearing before the appeal board shall be to determine whether or not the determination of the director is in the best interests of the public health, safety and welfare.
- (f) [Function of appeal board.] The function of the appeal board shall be to affirm, reverse, or modify the determination of the director which has been appealed. Any conditions imposed by the appeal board shall be reasonable, relevant to the issues in the matter, and have the effect of promoting the public health, safety and welfare.
- (g) [Hearing.] The hearing shall be administrative in nature and the decision of the appeal board shall be final.

## **Durham County**

### **Sec. 4-12. - Appeal procedures.**

- (a) Any owner affected by a declaration of dangerous dog shall have the rights of appeal enumerated in G.S. 67-4.1 and pursuant thereto may file a request for appeal with the

dangerous dog appeal board at the office of the county clerk to the board, 200 East Main Street, Durham, N.C., 27702.

(b) All testimony offered at an appeal hearing held pursuant to this chapter shall be given under oath and recorded by tape recording or any other reasonable manner. The hearing shall be open to the public and the person requesting the appeal may be represented by an attorney.

(c) The sheriff or his/her designee shall have the burden of proving that this chapter has been violated. The person requesting the appeal will be given an opportunity to prove that this chapter has not been violated. The sheriff or his/her designee will be given a final opportunity to clarify any conflicts, ambiguities or inconsistencies created by or arising from the statements or evidence. The dangerous dog appeal board may ask questions at any time during the appeal hearing and may request additional evidence from either party. Any sanctions or penalties imposed shall be enforceable during the pendency of any appeal.

## **Orange County**

### **Sec. 4-53. - Appeals.**

Except as otherwise provided herein any appeals provided by this Chapter shall be to a three member hearing panel as follows:

(a) A person who has been found to be in violation of this Chapter may appeal the final decision made by the Animal Services Director to the appeal board by filing a notice of appeal containing a concise statement of the reason for the appeal and delivering it to the Animal Services Director within five (5) days of receipt of the final decision.

(b) A hearing shall be scheduled within ten (10) days of the receipt of notice of appeal.

(c) A party alleged to be in violation of this Chapter may be represented by an individual of their choosing, including an attorney.

(d) The chair of the hearing panel shall administer oaths to all witnesses and make any ruling necessary to preserve fairness, order and proper decorum.

(e) A person appealing a decision may present competent, relevant and material evidence or testimony, cross-examine witnesses, inspect documents, and offer evidence or testimony in explanation or rebuttal.

(f) Any member of the hearing panel may call as a witness and question any interested party who has competent, relevant and material comments about the matters contained within the appeal.

(g) Members of the hearing panel may exclude and not factor into their decision any evidence, testimony, or statements deemed incompetent, irrelevant, immaterial or unduly repetitious and therefore fail to reasonable address the issues before the hearing panel.

(h) Within seven (7) days of the hearing the hearing panel shall issue a decision and cause that decision to forward to the person making the appeal and all other interested parties.

(i) Appeal under Section 4-42 of this Chapter (Vicious Animals and Dangerous Dogs) shall be to a three member hearing panel consisting of one member of the Animal Services Advisory Board, who shall serve as Chair, and two members drawn from the remainder of the pool. At least one member of the panel shall be from either the Town or County where the incident occurred. In the event that a representative of the town in question is not available to serve within the required period of time, a representative of one of the other towns will be selected.

(j) An appeal from the final decision of the hearing panel shall be taken to the Superior Court by filing a notice of appeal and a petition for review within 10 days of the final decision of the hearing panel. Appeals from rulings of the hearing panel shall be heard de novo before a superior court judge sitting in Orange County.

The Board of County Commissioners shall adopt a policy, which may be amended from time to time, governing the appointment of appeals panel members and any additional processes necessary to carry out appeals in fair and equitable manner. The Towns of Chapel Hill, Carrboro and Hillsborough may appoint one person from their respective jurisdictions to serve in the pool of prospective hearing board members. (Does not apply in the Town of Carrboro)

## Guilford

### **Sec. 5-12. - Dangerous or vicious animals restricted.**

(a) *General provisions.* It shall be unlawful for any person to own or in any way maintain or harbor any animal which is dangerous or vicious, except as provided in this chapter.

(b) *Enforcement.* If an animal control officer or law enforcement has determined that an animal is dangerous, then the animal control officer or law enforcement officer shall notify the owner immediately in writing. The owner shall turn the animal over to the county animal shelter or to an animal control approved veterinary clinic within 24 hours of such notification. After six working days, the county animal shelter or animal control officer shall have the duty and authority to impose one of the following remedies:

- (1) Require forfeiture of ownership of the animal(s) to Guilford County; or
- (2) Enforce compliance with subsection (e) of this section.

Any animal declared to be a dangerous or vicious animal, by the animal control officer or law enforcement officer, shall not be disposed of for research or experimental purposes. Failure

to comply with this section or any parameters herein may result in assessed civil penalties and/or forfeiture of animal(s).

(c) *Appeal.* Any person who owns an animal that has been declared dangerous or vicious by an animal control officer or law enforcement officer shall have the right to appeal this decision to an appellate board in accordance with G.S. 67-4.1 et seq. The owner of an animal declared dangerous or vicious shall have the right to request a hearing contesting that determination by submitting a written request to the office of the manager or his/her designee within five working days of the animal control officer's or law enforcement officer's determination that the animal is dangerous or vicious. A deposit may be required by the owner equal to the estimated costs, including veterinary care for ten days boarding. Failure to pay said deposit when required shall be deemed a waiver of all rights regarding the animal.

(d) *Hearing procedures.* The manager or his/her designee, serving as the appeal's hearing officer shall chair an appellate board to conduct a hearing to determine that the animal control officer's or law enforcement officer's determination that the animal is dangerous or vicious should be upheld. The board shall:

- (1) Make a determination as to whether or not the animal is dangerous or vicious, or otherwise possess a sufficient risk to the health or personal property of others;
- (2) Determine the appropriate means of compliance in accordance with subsection (b) above; and,
- (3) Issue such other order of direction as is necessary to enforce compliance with this section.

If the animal is determined, based on the discretion of the board, not to be dangerous or vicious, it shall be returned to the owner. If the board determines the animal to be dangerous or vicious, then the county animal shelter or animal control officer or law enforcement officer shall dispose of the animal in accordance with the determination of the appeals board. In the event of an appeal of the board's decision to the courts, the animal shall be confined at the county animal shelter pending the appeal. The owner of the animal shall be responsible for paying all boarding, veterinarian, and other expenses associated with keeping the animal during the appeal.

(e) *Enclosures for dangerous or vicious animals.* If an animal has been determined to be dangerous or vicious, as specified in this section, and at the appeals board's discretion, the owner may retain the animal upon satisfying the following conditions. The owner must erect, within 30 days of declaration of dangerous or vicious status by an animal control officer or law enforcement officer, or in the event of an appeal, within 15 days from the decision of the appeals board a proper structure and display warning signs. This structure must be inspected and approved by a code enforcement official; designated animal control officer; or installed by a qualified professional as meeting the following requirements and standards (Note: With

appropriate findings, the appeals panel may require alternative method(s) of enforcement of equal to or more restrictive than the requirements such forth below.)

(1) The structure must be a minimum size of 15 feet by six feet by six feet with a floor consisting of a concrete pad at least four inches thick. If more than one animal is to be kept in the enclosure, the floor area must provide at least 45 square feet for each animal. The walls and roof of the structure must be constructed of welded chain link of a minimum thickness of 12 gauge, supported by galvanized steel poles at least two and one-half inches in diameter. The vertical support poles must be sunk in concrete-filled holes at least 18 inches deep and at least eight inches in diameter. The chainlink fencing must be anchored to the concrete pad with galvanized steel anchors placed at intervals of no more than 12 inches along the perimeter of the pad. The entire structure must be freestanding and not be attached or anchored to any existing fence, building, or structure. The structure must be secured by a child-resistant lock.

(2) A warning sign of at least 120 square inches must be visible from each exposure of the structure which is visible to any adjoining property. Each sign must have a graphic representation of an appropriate animal such that the dangerousness or viciousness of the animal is communicated to those who cannot read, including young children.

(3) The owner of the animal will be responsible for ensuring that the enclosure is maintained in such a condition as to meet the requirements of this chapter. Failure to maintain or repair the enclosure shall subject the owner to penalty under this chapter.

(4) Prior to inspection of the enclosure by the appropriate personnel as described in (e) above the owner shall pay the current fee for the inspection of an accessory building. The animal shall not be returned to the owner's property until such time as this enclosure and warning signs have been approved. While this structure is being erected, the animal must be boarded at the county animal shelter at the owner's expense. A deposit may be required by the owner equal to the estimated costs, including veterinary care for ten days boarding. Failure to pay said deposit when required shall be deemed a waiver of all rights regarding the animal.

(f) *Confinement, muzzling and control of vicious animals.* It shall be unlawful for any owner or person to keep any vicious animal within the county unless it is confined within a secure building or enclosure or unless it is securely muzzled and under restraint by a competent adult who, by means of a leash, chain or rope, has such animal firmly under physical restraint at all times. Failure to comply will result in a civil penalty and/or forfeiture of the animal in accordance with (b)(1) of this section.

(g) *Owners of animals deemed dangerous or vicious.* Owner(s) of an animal declared to be dangerous or vicious must immediately notify Guilford County Animal Control, in writing, of any change of address or transfer of ownership of animal(s).

## Lincoln County

### § 92.07 DANGEROUS DOGS.

(A) *Dangerous dogs prohibited.* It shall be unlawful for anyone to own, maintain, or harbor a dog cited and identified as a **DANGEROUS ANIMAL** in the county, as defined in § 92.02.

(B) *Seizure of dangerous dog.* Any dangerous dog may be seized and impounded at the County Animal Shelter. The seizure and impoundment will be at the owner's expense.

(C) *Authority to declare dog dangerous.* The Animal Services Supervisor or his or her designee shall have authority to determine whether probable cause exists to declare a dog dangerous.

(D) *Notice to owner.* An Animal Services Officer, Sheriff's Deputy, or Police Officer shall serve notice on the owner or keeper of an animal as soon as reasonably possible, providing specific reasons which constitute probable cause for declaring an animal dangerous. All reasonable attempts will be made to locate the owner of the animal. The Animal Services Supervisor or designee shall keep a written record of all communications with the owner or keeper.

(E) *Dangerous dog hearing.*

(1) The owner or keeper of a dog subject to being declared dangerous is entitled to a hearing. The owner or keeper of the animal may request a hearing regardless of whether a probable cause notice has been delivered. The owner or keeper may request a hearing by submitting a written request to the Animal Services Supervisor or designee within five working days after delivery of a notice of probable cause, or when all reasonable efforts to deliver the notice of probable cause have been exhausted.

(2) If the owner or keeper fails to request a hearing, the Animal Services Supervisor or designee shall determine whether the animal is dangerous. The Animal Services Supervisor or designee shall make findings of fact to support the determination.

(3) The Animal Services Officer, Deputy Sheriff or Police Officer shall present whatever evidence exists to indicate the animal in question is dangerous. The owner or keeper is entitled to present whatever evidence the owner or keeper wishes and to have legal representation present.

(4) The Animal Services Supervisor or designee's decision shall be supported by conclusions based upon findings of fact. Findings of fact must be supported by competent material evidence.

(5) Pursuant to G.S. § 67-4.1, the Animal Services Supervisor or designee shall be responsible for determining when a dog is a potentially dangerous dog. The Lincoln County Board of Commissioners shall designate a separate Board to hear any appeal from his or her decision. The Board of Animal Appeals will consist of five members, with two members initially serving one-year terms and three members serving two-year terms. After the initial terms, all

terms shall be for a period of two years, so that the appointments are staggered. The following will be considered when appointing the Board of Animal Appeals:

- (a) A person that is familiar with animals and works with them on a regular basis (e.g., a veterinarian or technician who works in a veterinary clinic);
- (b) A person who is active in animal welfare issues;
- (c) A law enforcement officer; and
- (d) Two citizens at large (preferably one that does not own a dog).

(F) *Disposition of dangerous dogs.*

(1) Dogs impounded or declared dangerous shall not be allowed to return to or remain in the county.

(2) The owner or keeper of the dog may redeem the animal by paying the redemption fees imposed by Animal Services, and providing proof of another safe location to maintain the animal outside of the county.

(Ord. 2008-04, passed 10-6-2008; Ord. 2008-05, passed 11-17-2008)

## **Pasquotank**

### **91.04 Determination that a dog is dangerous, potentially dangerous or vicious.**

A. *Generally.* Upon a complaint, or when he has reasonable suspicion, that a dog is potentially dangerous, dangerous or vicious, the Sheriff's Office shall make a determination whether or not such dog is dangerous, potentially dangerous or vicious. Any determination that a dog is potentially dangerous, dangerous or vicious shall be made in a writing which summarizes the available evidence and which shall be delivered or mailed certified mail, return receipt requested, to the owner. If the determination is made that the suspect dog is dangerous, potentially dangerous, or vicious, the written determination shall order compliance with the appropriate provisions of this ordinance and the Sheriff's Office may impose reasonable conditions to maintain the public health and safety. The Sheriff's Office shall assess appropriate civil penalties if he determines that violations of this article have been established and may elect to pursue other remedies authorized by law.

B. *Appeals from determinations.*

Any party having a direct interest in the matter and aggrieved by any determination as provided in this chapter may within five (5) business days of receiving such determination appeal such determination in writing, within five (5) business days to the Animal Control Board by delivering a written notice of appeal to the Sheriff's Office. . The ruling of Animal Control Board shall be final, subject only

to such appeal or certiorari proceeding as may be provided by law to the Superior Court for Pasquotank County, filed within ten (10) days of the date of the final determination by the Animal Control Board.

Any determination of the Sheriff's Office Law Enforcement Agency under Section 91.04(A) may be appealed to the Animal Control Board by filing written objections with the Chairman of the Animal Control Board within five (5) business days after such determination. The Animal Control Board shall schedule a hearing on such appeal within ten (10) days of the filing of the written objections. The Animal Control Board shall render its decision as expeditiously as possible after the hearing. It shall deliver it to the parties and any person appearing at the hearing and requesting notice thereof, certified mail—return receipt requested, and file it concurrently with the Sheriff and the Office of the Pasquotank County Attorney. Any decision of the Animal Control Board concerning any appeal provided for in this Chapter other than under Section 91.04(B) shall be final.

Any appeal hearing before the Animal Control Board shall be conducted as follows:

- (i) The hearing shall be subject to the Open Meetings Law, and the notice required thereunder shall be posted and given as applicable;
- (ii) The parties may appear pro se or be represented by an attorney;
- (iii) Any person adversely affected by the appeal may appear and participate fully in the proceeding;
- (iv) Participants may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
- (v) Participants shall be entitled to the right of cross examination;
- (vi) The hearing shall be quasi-judicial in nature and all testimony shall be under oath;
- (vii) Any participant shall be entitled to transcribe the proceeding at his own cost;
- (viii) The Animal Control Board may affirm, deny, or affirm with conditions the determination appealed from. Any conditions imposed by the Animal Control Board shall be reasonable, shall be relevant to the issues in the matter, and shall have the effect of promoting the public health, safety and welfare.
- (ix) The Animal Control Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
- (x) The Animal Control Board may order that a vicious dog be euthanized.