

**SEC. 53.18.5. HEARING PROCEDURES AND LICENSE REVOCATIONS.****(Added by Ord. No. 162,538, Eff. 8/27/87; Title Amended by Ord. No. 181,930, Eff. 12/11/11.)**

This section shall govern hearing procedures for barking dog complaints, the revocation of dog licenses and related matters. For purposes of this section the term "dog" includes the plural and the term "owner" means the owner or person having charge, care or custody of a dog. **(Amended by Ord. No. 181,930, Eff. 12/11/11.)**

(a) **Hearing.** A hearing pursuant to this Section shall be held to issue or reissue a dog license upon terms, conditions and restrictions. A hearing shall also be held to revoke a dog license that has previously been issued or reissued upon terms, conditions or restrictions where the owner has either failed to comply with the terms, conditions or restrictions or the violation continues to exist or reoccurs. A hearing also may be held in the absence of a dog license or in the absence of a valid license. Following the hearing, the license may be issued or reissued upon terms, conditions and restrictions, or the owner may be ordered to surrender the dog to the Department or remove the dog from the City as if the license was revoked. **(Amended by Ord. No. 181,930, Eff. 12/11/11.)**

(b) **Hearing Examiner.** A Hearing Examiner appointed by the General Manager shall exercise all powers relating to the conduct of the hearing, including but not limited to, the administration of oaths and affirmations and to certify to official acts.

(c) **Notice of Hearing.** The Department shall commence a hearing by issuing to and the serving of a written notice upon the owner of the dog. Notice shall be served at least ten (10) days prior to the date set for the hearing. The notice shall state in clear and concise language:

1. the purpose and reason for holding the hearing and the requested remedy or penalty, and
2. the time and place where the hearing is to be held.

(d) **Subpoena Power.** **(Amended by Ord. No. 173,273, Eff. 6/25/00, Oper. 7/1/00.)** The General Manager or his authorized representative is authorized and empowered to summon witnesses for the hearing by requesting the City Clerk, pursuant to Section 217 of the Charter of the City of Los Angeles, to issue subpoenas requiring the attendance of such witnesses at the time and place specified.

(e) **Witnesses.** At the hearing, the owner of the dog, the complainant or complainants, if any, and the Department shall be given an opportunity to present evidence, and call and cross-examine witnesses.

(f) **Continuances.** The Hearing Examiner may continue the hearing from time to time upon good cause being shown.

(g) **Notice.** Any written notice provided for in this section shall be served upon the owner of the dog in the manner provided for giving of notice in Section 11.00 (i) of this Code, or by posting upon property occupied by the owner, or both. Service by posting is complete upon posting.

(h) **Evidence.** Hearings need not be conducted according to technical rules relating to evidence or witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. Oral evidence shall be taken only on oath or affirmation.

(i) **Reporting.** A recording or transcript of the hearing shall be taken.

(j) **Burden of Proof.** The burden is on the Department to show by a preponderance of the evidence that the allegations made are true.

(k) **Hearing Examiner - Report.** The Hearing Examiner shall, within 15 days of the conclusion of any hearing, submit a report to the General Manager. The report shall contain a summary of the evidence, including oral testimony, and shall state the Hearing Examiner's findings and recommendations. The report shall be a public record and shall be served upon the owner

of the dog in accordance with the provision of (g) above.

**(l) Hearings. (Amended by Ord. No. 165,507, Eff. 3/25/90.)**

1. **(Amended by Ord. No. 181,930, Eff. 12/11/11.)** If, at the initial hearing the Hearing Examiner determines that the allegations are true, the Hearing Examiner shall recommend that the license be issued or reissued upon reasonable terms, conditions or restrictions for the training, handling or maintenance of the dog to abate the condition which gave rise to the hearing. In the absence of a dog license or of a valid license, the Hearing Examiner may recommend that the license be issued upon reasonable terms, conditions or restrictions or if the owner is unwilling to accept an issued or reissued license, that the dog be surrendered to the Department or removed from the City. Surrendering the dog to the Department or removing the dog from the City shall be in addition to any civil or criminal penalties for failure to have a valid license.

Terms, conditions, or restrictions may include but are not limited to the following:

- A. selection of locations within the owner's property or premises where a dog shall not be kept;
- B. requirements as to size, construction or design of an enclosure where a dog may be kept;
- C. specialized training from a trainer or training program approved by the Department to correct any of the dog's behavioral problems;
- D. removal of one or more dogs from the premises to another location or prohibiting the addition of any new dog at the premises;
- E. types and method of restraint, or muzzling, or both;
- F. photo identification, permanent marking, electronic identification device, or all of these, for purposes of identification;
- G. sterilization, even if otherwise exempt;
- H. a civil penalty as provided by ordinance for an administrative citations enforcement program;
- I. requiring the owner to obtain a Restricted Dog Permit with additional terms, conditions and restrictions pursuant thereto.

2. A hearing or subsequent hearing shall be held wherein the license may be revoked if the owner has either failed to comply with the terms, conditions or restrictions imposed pursuant to clause (1), above, or Subdivision (r) or if the violation continues to exist.

If the license is again reissued, in addition to any other term, condition or restriction recommended by the Hearing Examiner, the licensee shall agree to pay a civil penalty in the amount of two hundred fifty dollars (\$250) as a condition of the re-issuance of the license. The General Manager shall establish such rules and regulations as are reasonably necessary to prevent the imposition of the civil penalty from becoming an economic hardship on the licensee. Such rules and regulations shall include, but are not limited to, criteria to reduce the amount of penalty to be imposed and provisions for time payments.

3. If the owner fails to appear at a hearing or absents himself from a hearing, the Hearing Examiner may continue the matter or proceed with the hearing as the Hearing Examiner deems appropriate. Notwithstanding any other provision of this Section, the Hearing Examiner may recommend that the license of any owner who fails to attend a hearing or absents himself from a hearing be revoked if the evidence establishes that the allegations are true. In the absence of a license or a valid license, the Hearing Examiner may recommend that the dog be surrendered to the Department or removed from the City as if the license were revoked. Surrendering the dog to the Department or removing the dog from the City shall be in addition to any civil or criminal penalties for failure to have a valid license.  
**(Amended by Ord. No. 181,930, Eff. 12/11/11.)**

(m) **General Manager - Review.**

1. The General Manager shall review the findings and recommendations of the Hearing Examiner and may adopt or reject the Hearing Examiner's findings, or may adopt or modify the recommendations of the Hearing Examiner, or may return the matter to the Hearing Examiner for further evidence or for additional findings and recommendations. The General Manager's decision shall be finalized in writing within 15 days of the receipt of the Hearing Examiner's findings and recommendations, and shall be served upon the owner in accordance with the provisions of (g) above.

2. The decision of the General Manager is final and effective when served upon the owner, unless there is an appeal filed within 15 days of said service.

(n) **Revoked License - Removal of Animal from City.** Following a hearing, if a dog license is revoked, or in the absence of a license or a valid license, if the dog has been ordered to be surrendered to the Department or removed from the City as if the license were revoked, the owner shall surrender the dog to the Department or permanently remove the dog or cause the dog to be permanently removed from the City within five (5) calendar days after either the time for appeal, as provided herein, has passed without an appeal being filed, or the decision of the General Manager revoking a dog license or ordering the dog to be surrendered to the Department or removed from the City as if the license were revoked, has been served upon the dog owner. The dog shall be impounded by the Department if found within the City after the five day period. Failure to remove a dog from the City or surrender it to the Department as provided herein is a misdemeanor. **(Amended by Ord. No. 181,930, Eff. 12/11/11.)**

(o) **Subsequent Disposition of Dog.** Notwithstanding any other provision of law, the Department shall hold for sale any dog surrendered or impounded pursuant to this section for a period of forty-five (45) days. The dog must be transferred to and sold from a district animal shelter different from the district animal shelter where the complaint arose. The General Manager or his duly authorized representative may impose appropriate terms, conditions or restrictions as a condition to the issuance of a new license to a new owner.

(p) **Notice to the Department of the Removal of a Dog from the City.** An owner of any dog whose license has been revoked pursuant to this section shall inform the Department in writing upon the dog's removal from the City the name, address, and telephone number of the new owner, the location where the dog will be kept and the name and description of the dog. The owner shall, in addition, notify the new owner in writing of the details of any and all complaints concerning the dog, and any terms, conditions or restrictions previously imposed by the Department. The owner shall provide the Department with a copy of the notification to the new owner as well as an acknowledgment by the new owner the receipt thereof.

(q) **Appeal Procedures. (Amended by Ord. No. 164,477, Eff. 3/27/89.)**

1. The decision of the General Manager to revoke a dog license or order a dog to be surrendered to the Department or removed from the City as if the license were revoked, to declare a dog to be a dangerous animal, to issue or re-issue a dog license upon terms, conditions or restrictions, or refuse to issue a new license pursuant to Subdivision (r) may be appealed to the Board of Commissioners by the owner of the dog as provided herein. **(Amended by Ord. No. 181,930, Eff. 12/11/11.)**

2. The Board may establish such rules and procedures consistent with this section as it deems necessary for the conduct of the hearing of appeals, including, but not limited to, the filing and presentation of written and oral statements.

3. The appeal shall be in writing and shall be on an appeal form provided by the Department. The appellant shall set forth specifically on the form wherein the appellant believes that the decision of the General Manager is not supported by the evidence or where any hearing before a Hearing Examiner was not conducted in accordance with the provisions of this section for the conduct of hearings. Within 10 days from the date of a timely filed appeal, the General Manager shall transmit to the Board copies of the Hearing Examiner's file and report, the General Manager's written decision and the appeal form for consideration.

The grounds or reasons stated on the appeal form by the appellant will be the only grounds or reasons considered by the Board. No appeal shall be considered if filed or postmarked later than 15 days after the decision of the General Manager is served upon the owner or if the owner has failed to appear at the hearing before the Hearing Examiner.

4. The Board shall fix the time, date and place of the hearing and shall serve a notice of the hearing upon all parties at least five days prior to the hearing. The Board shall conduct its hearing at the time, date and place specified in the notice unless, upon the written request of the appellant and upon good cause being shown, it agrees to continue the hearing once to a date certain no later than 14 days after the original date set for the hearing.

5. The Board, after notice and hearing, may affirm, modify, or reverse the decision of the General Manager and deny or grant appeal accordingly.

6. The Board shall not consider any new evidence and shall base its decision only upon

- (i) the record before the Hearing Examiner,
- (ii) the report of the Hearing Examiner,
- (iii) the written decision of the General Manager,
- (iv) the appeal form, and
- (v) a consideration of statements, if any, presented to the Board orally or in writing at the hearing.

7. The Board shall make its decision within 75 days from the date the General Manager transmits to the Board the materials described in Subdivision 3 above provided, however, this time limit may be extended once if, prior to the expiration of the 75 days, the appellant, the General Manager and the Board mutually agree to extend this time limit for a period not to exceed 15 days. If the Board fails to act on any appeal within the specified time limits, the decision of the General Manager shall be deemed affirmed without further action by the Board.

8. The Board may reverse or modify the decision of the General Manager and grant the appeal only when the written decision of the General Manager is not supported by the evidence or whenever a hearing before a Hearing Examiner was not conducted in accordance with the provisions of this section for the conduct of hearings.

9. The decision of the Board to reverse or to modify the decision of the General Manager shall be in writing. The decision shall enumerate the ground or grounds which form the basis for the Board's action and specify where in the record the evidence supports each ground so enumerated.

10. A decision of the Board is final. It becomes effective when served upon the General Manager and appellant by the Board.

**(r) Reinstatement of License Privileges. (Added by Ord. No. 165,507, Eff. 3/25/90.)** Upon the written request of the person whose privilege to own, possess, control or be in charge of any dogs has been terminated pursuant to Sections 53.34.4(h) or 53.63(c), the General Manager may reinstate the privilege as to other dogs and authorize the Department to issue a new license. In addition to any other requirement of law, the General Manager may impose such terms, conditions or restrictions as he believes are necessary to protect the public health, safety and welfare, and which may be in addition to any term, condition or restriction authorized by Clause (1) of Subdivision (l), above, or Section 53.34.4(e)(2).

The General Manager's decision shall be in writing and state the reasons for issuing or refusing to issue the license or imposing terms, conditions or restrictions and shall be served upon the owner in accordance with the provisions of Subdivision (g). The owner may appeal to the Board the refusal to issue a license or the imposition of terms, conditions or restrictions as provided by this section.

No license shall be issued until the decision is final and then only upon the written acceptance by the owner of any terms, conditions or restrictions finally imposed. If the owner fails to comply with the terms, conditions or restrictions imposed herein, any license revocation hearing shall be held pursuant to Clause (2) of Subdivision (l) this section.