



State of North Carolina

ROY COOPER
ATTORNEY GENERAL

Department of Justice
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REPLY TO:
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April 8, 2014

Ms. Jeri Arledge
Rusty's Legacy Animal Shelter
139 Lytle Mountain Road
Marion, North Carolina 28752

CERTIFIED MAIL: RETURN RECEIPT
REQUESTED

Re: WARNING LETTER
Request for Remediation Schedule for Correcting Animal Shelter
Deficiencies

Dear Ms. Arledge:

I am the designated Assistant Attorney General representing the Animal Welfare Section, Veterinary Division, North Carolina Department of Agriculture & Consumer Services ("AWS"). As you are aware, your shelter facility was recently inspected by members of the AWS' staff. The AWS is responsible for enforcing state laws and regulations applicable to boarding kennels, pet shops and public and private animal shelters. You have received a copy of those laws and the rules establishing the minimum standards for conditions and practices in animal shelters in North Carolina.

The inspection on March 31, 2014, was a follow up inspection following a failed inspection on February 19, 2014. Based upon this inspection, the Section determined that your facility has failed to comply with the applicable laws and regulations, as described in the inspection report. During the inspection the inspectors found the following deficiencies:

- 1) Origination of vaccination records were insufficient for five of the ten animals whose records the inspector requested and reviewed;
- 2) Your animal records were unorganized, making it difficult to match veterinary treatment records with origination/disposition records for individual animals;
- 3) Your animal medication logs for March 2014 had not been initialed by the person administering the medication to the animals;
- 4) One enclosure had damaged and/or chewed tarp and bedding;

5) Several enclosures failed to have at least one house for each dog housed within the enclosure;

6) The majority of the enclosures have areas of bare dirt and need additional gravel to a minimum depth of six inches. I note that you told the inspector that you have added three truckloads of gravel to the facility since the previous inspection;

7) Some of the dog houses have damage caused by chewing and need repair or replacement;

8) The sink in the play yard contained dirty bowls. Clean bowls are stored around the wash basin; animals playing in the play area have access to the bowls;

9) There were two or three plastic watering receptacles with damage from chewing that need repair or replacement;

10) There was evidence of rodent infestation in the facility. You stated that you have hired a professional exterminator and the inspector noted bait stations had been placed around the perimeter fence;

11) You stated that the facility had not been cleaned that day. There was a wheelbarrow full of animal feces in the play yard. Some enclosures had excessive amounts of animal feces;

12) The play area fence had damaged wire needing repair or replacement;

13) The isolation enclosure for sick animals was found not to be intact during inspection. This constitutes a critical concern to the AWS because:

a) you admitted to having treated puppies for symptoms of parvo but had not isolated them from the rest of the animals;

b) AWS' inspectors worked with you during previous visits to get this isolation enclosure set up in a stall in the barn; and

c) the isolation enclosure fencing prevented animals kept within it from coming in contact with the wooden sides of the stall.

14) Facility records indicate that five animals are in foster care, but no pictures of these animals were available in the facility. You stated that you keep pictures of the animals with the records that you keep in your possession;

15) Your facility sign indicates it is open to the public from 3:00 p.m. to 6:00 p.m. on Friday and Sunday. This is less than the minimum number of hours and days required, four hours per day, three days per week;

16) "Wilbur's" enclosure is not escape-proof. One side of the enclosure is a livestock gate. As this will not keep an animal inside, the Section does not deem the enclosure to be structurally sound.

Failure to maintain the facility in good condition can constitute violation of the following statutes and rules, which are attached to this letter for your reference:

02 NCAC 52J .0101

02 NCAC 52J .0204

02 NCAC 52J .0201

02 NCAC 52J .0205

02 NCAC 52J .0103

02 NCAC 52J .0206

02 NCAC 52J .0203

02 NCAC 52J .0207

G.S. 19A-32.1(c), (d)

Each of these deficiencies can constitute grounds for action against the shelter's registration certification, up to and including revocation of that certification. This letter constitutes a **WARNING** that future deficiencies like these will result in disciplinary action by the Department.

Would you please provide the Animal Welfare Section with the remedial steps to be taken to solve these problems and the date when you expect that the shelter will have completed those steps? We would appreciate a reply to this letter by no later than ten days from the date of receipt. Please feel free to respond directly to the Animal Welfare Section by fax or by letter. The address and fax number are available on the AWS website, <http://www.ncagr.gov/vet/aws/index.htm>.

If you have any questions about the applicable law or the shelter's status, please feel free to speak with me or with Dr. Lee Hunter, the AWS' director.

Sincerely,



Barry H. Bloch
Assistant Attorney General
North Carolina Department of Justice

Enclosure

Copy to: Lee Hunter, DVM, NCAWS, NCDA&CS

02 NCAC 52J .0101 RECORDS; ANIMAL SHELTERS, ETC.

Operators of all animal shelters, pet shops, public auctions, and dealers shall maintain records on all dogs and cats showing the following:

- (1) origin of animals (including names and addresses of consignors) and date animals were received;
- (2) description of animals including species, age, sex, breed, and color markings;
- (3) location of animal if not kept at the licensed or registered facility;
- (4) disposition of animals including name and address of person to whom animal is sold, traded or adopted and the date of such transaction; in the event of death, the record shall show the date, signs of illness, or cause of death if identified; if euthanized, the record shall show date and type of euthanasia; and
- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0201 GENERAL

- (a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.
- (b) All light fixtures and electrical outlets in animal areas shall be in compliance with the State Building Code.
- (c) Facilities shall have reliable and safe electric power as necessary to comply with the Animal Welfare Act.
- (d) Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin and insects. All open bags of food shall be stored in airtight containers with lids. Refrigeration shall be provided for supplies of perishable food.
- (e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.
- (f) Hot and cold running, potable water must be available. Facilities such as washroom, basin or sink shall be provided to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles.
- (g) Each facility shall have the ability to confirm ambient temperature.
- (h) A separate five-foot perimeter fence is required if any animals have access to an outdoor enclosure, including unsupervised exercise areas.
- (i) An adequate drainage system must be provided for the housing facility.
- (j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and Consumer Services employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).
- (k) All animals in a facility are subject to the requirements of the Animal Welfare Act, regardless of ownership.
- (l) A licensee or registrant shall comply with all federal, state and local laws, rules and ordinances relating to or affecting the welfare of dogs and cats in its facility.
- (m) No dog or cat shall be in a window display except during business hours and then only in compliance with standards set forth in this Section.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. January 1, 2005.

02 NCAC 52J .0203 OUTDOOR FACILITIES

- (a) In outdoor facilities that are subject to the Animal Welfare Act, primary enclosures and walkways with which an animal comes in contact shall be constructed of sealed concrete or other surfaces impervious to

moisture. Gravel may be used if maintained at a minimum depth of six inches and kept in a sanitary manner.

(b) Dogs and cats kept outdoors shall be provided housing to allow them to remain dry and comfortable during inclement weather. Housing shall be constructed of material which is impervious to moisture and which can be disinfected. One house shall be available for each animal within each enclosure except for a mother and its unweaned offspring.

(c) In addition to housing, the enclosure shall provide protection from excessive sun and inclement weather.

(d) Animal owners shall be advised at the time of reservation and admission if the animal will be kept in outside facilities.

(e) A suitable method of drainage shall be provided.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. March 23, 2009; January 1, 2005.*

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

(b) Primary enclosures for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out. Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, urn about freely, and to easily stand, sit, or lie in a natural position. The height of a primary enclosure other than a cage shall be no less than five feet. All enclosures shall be constructed to prevent the escape of animals.

(c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

(d) In addition to Paragraph (b) of this Rule, each dog shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144. The calculation is: $(\text{length of dog in inches} + 6) \times (\text{length of dog in inches} + 6) = \text{required floor space in square inches}$. $\text{Required floor space in square inches} \div 144 = \text{required floor space in square feet}$. The calculation shall be expressed in square feet. Not more than four adult dogs shall be housed in the same primary enclosure without supervision.

(e) If more than four dogs are housed in a common area or enclosure, then there must be at least one person supervising each 10 dogs housed within each enclosure or common area.

(f) In addition to Paragraph (b) of this Rule, each feline older than six months housed in any primary enclosure shall be provided a minimum of four square feet of floor space which may include elevated resting surfaces. Each feline younger than six months shall be provided 1.5 square feet. Not more than 12 cats shall be housed in the same primary enclosure.

(g) In all cat enclosures, a receptacle containing clean litter shall be provided for waste. A minimum of one receptacle per three cats is required.

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985.*

02 NCAC 52J .0205 FEEDING

(a) Dogs and cats shall be fed at least once each 24-hour period except as otherwise might be required to provide adequate veterinary care. Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The food shall be free from

contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value. Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour interval between feedings is required if only two feedings are offered in a 24-hour period.

(b) Food receptacles shall be accessible to all dogs or cats and shall be located so as to minimize contamination by waste. For every adult animal, there must be at least one food receptacle offered. Food receptacles shall be durable and shall be kept clean and sanitized. Damaged receptacles shall be replaced. Disposable food receptacles may be used but must be discarded after each feeding.

(c) Food and water receptacles in outdoor facilities shall be protected from the elements.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. January 1, 2005; April 1, 1985.

02 NCAC 52J .0206 WATERING

Animals shall have continuous access to fresh water, except as might otherwise be required to provide adequate veterinary care. Watering receptacles shall be durable and kept clean and sanitized. Damaged receptacles shall be replaced.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. January 1, 2005.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats contained therein and to reduce disease hazards and odors. Enclosures and exercise areas for dogs and cats must be properly cleaned a minimum of two times per day. The animal must be able to walk or lie down without coming in contact with any waste or debris. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

(1) Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories shall be sanitized in the manner provided in Subparagraph (b)(3) of this Rule.

(2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.

(3) Cages, rooms and hard-surfaced pens or runs shall be sanitized by:

(A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or

(B) washing all soiled surfaces with a detergent solution to remove all organic matter followed by application of a safe and effective disinfectant; or

(C) cleaning all soiled surfaces with live steam.

(4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.

(5) Soiled linens and cloth products shall be mechanically washed with detergent and sanitized.

(6) Any area accessible to multiple animals shall be kept clean and sanitary.

(c) Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. Premises shall remain free of accumulations of trash, junk, waste products, and discarded matter. Weeds, grasses, and bushes must be controlled so as to facilitate cleaning of the premises and to improve pest control, and to protect the health and well-being of the animals.

(d) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

History Note: Authority G.S. 19A-24;

Eff. April 1, 1984;

Amended Eff. January 1, 2005; April 1, 1985.