



Steven W. Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Veterinary Division*

R. Douglas Meckes, DVM  
State Veterinarian

April 22, 2016

Pettsboro  
Attn: Antoinette Thomas, Owner  
117 Elf Way  
Pittsboro, North Carolina 27312

UPS Tracking Number Signature Required

**NOTICE OF CIVIL PENALTY**

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02, N.C. ADMINISTRATIVE CODE (NCAC), CHAPTER 52J, SECTION .0204(e)**

**Facility: Pettsboro**

**AWS-CP-2016-5**

Dear Ms. Thomas:

Pursuant to N.C. Gen. Stat. § 19A-40 I am issuing this notice to you that Pettsboro is assessed a civil penalty of \$500.00, as provided in the enclosed Notice of Violations and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

### **PAYMENT**

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services  
Dr. Patricia Norris  
Director, Animal Welfare Section  
1030 Mail Service Center  
Raleigh, NC 27699-1030

### **APPEAL**

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse  
North Carolina Department of Agriculture and Consumer Services  
Registered Agent and General Counsel  
1001 Mail Service Center  
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Norris, DVM, MS". The signature is written in a cursive style with a horizontal line above the name.

Patricia Norris, DVM, MS  
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS  
Ms. Tina Hlabse, General Counsel, NCDA&CS  
Mr. Joe Reardon, Assistant Commissioner, NCDA&CS

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF  
AGRICULTURE AND CONSUMER SERVICES,  
VETERINARY DIVISION

IN THE MATTER OF  
PETTSBORO

) NOTICE OF VIOLATIONS,  
) ASSESSMENT OF CIVIL  
) PENALTY  
)  
) For Violations Of:  
) 02 NCAC 52J .0204(e)  
)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section (“AWS”), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

### FINDINGS OF FACT

1. At all times pertinent to this matter Pettsboro (the “kennel”) is a boarding kennel licensed pursuant to N.C. Gen. Stat. §19A-28.
2. On July 27, 2015, AWS Animal Health Technician Elizabeth Garner (“Inspector Garner”) conducted the annual inspection for this facility. At this time, Ms. Thomas did not inform the inspector that she was using part of her residence as a “senior room” to board “nervous, sickly or older dogs.”
3. On the July 27, 2015, Inspector Garner noted a violation of 02 NCAC .0204(e) due to “6-9 dogs at play without supervision.” Ms. Thomas was made aware of this violation during the inspection and signed the inspection report noting this violation.
4. During an interview on September 10, 2015, Ms. Thomas indicated that the use of the senior room noted in a paragraph above was standard practice. At that time Inspector Garner informed Ms. Thomas that all parts of a facility used for the boarding of animals must be inspected and be in compliance with the AWA.
5. On September 29, 2015, Inspector Garner returned to the kennel for a follow-up inspection. Again the inspector noted the kennel to be violating 02 NCAC .0204(e) by allowing 11 dogs in one room without supervision.
6. On October 12, 2015, the kennel was assessed a civil penalty totaling \$1,250.00 for violation of 02 NCAC 52J .0201(j) and .0204(e). This civil penalty was not appealed by the kennel and has become final.
7. On April 11, 2016, Inspector Garner visited the kennel in order to conduct a follow-up facility inspection.
8. During the April 11, 2016 facility inspection, a dog named Penny was being boarded inside the kennel owner’s residence.

9. Inspector Garner noted that Penny was being housed inside the residence in an area with 12 dogs owned by the kennel owner. All 13 dogs were loose together in this area and no staff was present to supervise the animals.
10. Review of the kennel records revealed that no evidence could be found that the kennel owner had obtained written permission from the owner of Penny to allow contact with other animals.

## CONCLUSIONS

As a result of this investigation, AWS, finds that the kennel, either by act or omission, violated the Title 02 of the North Carolina Administrative Code 52J .0204(e). Furthermore, AWS finds that the kennel has been previously issued a civil penalty for violation of the same NCAC regulation in October 2015. AWS hereby notifies the owner of the kennel that any future violation of these NCAC regulations will be considered willful disregard of the AWA and may result in the suspension or revocation of the boarding kennel license for this facility. Furthermore, AWS notifies the owner of the kennel that any area used for confining an animal is subject to inspection. Failure to notify the AWS inspector of an area in which animals are or will be confined will be considered to be a violation of 02 NCAC .0201(j).

(See Appendix for text of cited General Statutes and Administrative Codes)

## CIVIL PENALTIES

As required by N.C. Gen. Stat. § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, Pettsboro is assessed a civil penalty of \$500.00 for violation of 02 North Carolina Administrative Code 52J .0204(e)

\$500.00 TOTAL AMOUNT ASSESSED

4/22/2016  
Date

Patricia Norris, DVM, MS  
Patricia Norris, DVM, MS  
Director, Animal Welfare Section  
North Carolina Department of  
Agriculture & Consumer Services

## Appendix

### N.C. General Statutes 19A-40 and N. C. Administrative Codes 52J .0201 (j)

#### **§19A-40. Civil Penalties.**

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6; 1998-215,s.3.)

#### **02 NCAC 52J .0201 GENERAL**

(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.

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

#### **02 NCAC 52J .0204 PRIMARY ENCLOSURES**

(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.

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

#### **02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION**

Animals housed in the same primary enclosure shall be maintained in compatible groups, with the following additional restrictions:

- (2) In boarding kennels, animals of different owners shall not have contact with other animals, unless written permission is obtained from the animal's owner. Any dog or cat exhibiting an aggressive disposition shall be housed individually in a primary enclosure.

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