



Steven W. Troxler
Commissioner

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

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

November 3, 2022

Mary Padavick, Director
Faithful Friends Animal Sanctuary
220 Grace Church Road
Salisbury, NC 28147

NOTICE of CIVIL PENALTY and NOTICE of WARNING

Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTIONS .0101(5); .0201(c) and (g); .0202(a) and (d); .0204(b); .0207(a); .0210(d) and (h); and NOTICE OF WARNING for VIOLATIONS of NC GENERAL STATUTE ("NCGS") § 19A-28 AND 02 NCAC 52J .0201(d)(3); .0204(f) and .0209(8).

AWS-CP-2022-15

Facility: Faithful Friends Animal Sanctuary
Registration Number: 277

Dear Ms. Padavick:

Pursuant to NCGS § 19A-40, I am issuing this notice that Faithful Friends Animal Sanctuary is hereby assessed a civil penalty of \$1,700.00 as provided in the enclosed Notice of Violation.

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 NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may contact me 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 NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). 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:

Mr. Jonathan Lanier
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 that reads "Patricia Norris, DVM, MS". The signature is written in a cursive, flowing style.

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: Michael Martin, DVM, State Veterinarian
Jonathan Lanier, General Counsel, NCDA&CS
Christina L. Waggett, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Special Deputy Attorney General
Thomas Caddell – Registered Agent for Faithful Friends Animal Sanctuary

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT
OF AGRICULTURE AND CONSUMER
SERVICES, VETERINARY DIVISION
ANIMAL WELFARE SECTION

FAITHFUL FRIENDS

ANIMAL SANCTUARY

) NOTICE OF VIOLATION and
) ASSESSMENT of CIVIL PENALTY
) for VIOLATIONS of TITLE 02 NC
) ADMINISTRATIVE CODE ("NCAC")
) CHAPTER 52J SECTIONS .0101(5);
) .0201(c) and (g); .0202(a) and (d); .0204(b);
) .0207(a); and .0210(d) and (h); and NOTICE
) of WARNING for VIOLATIONS of NC
) GENERAL STATUTE § 19A-28 and 02
) NCAC 52J .0201(d)(3); .0204(f);
) and .0209(8)
)

Acting pursuant to NCGS § 19A-40, Dr. Patricia Norris, Director, Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") makes the following:

FINDINGS OF FACT

1. At all times pertinent to this matter, Faithful Friends Animal Sanctuary Animal Shelter ("the shelter") located at 220 Grace Church Road, Salisbury, NC was an animal shelter, registered pursuant to NCGS § 19A-26.
2. On March 1, 2022, AWS issued a Notice of Warning and Notice of Violation to the shelter for violations of NCGS § 19A-32.1(a), (b)(2), (c), (d), (e), (f), (g), (h), (i), and (j) and 02 NCAC 52J .0101(1) – (3); .0103; .0201(d) and (h); .0202(d); .0203(a); .0204(a) and (b); .0206; and .0210(d).
3. The March 1, 2022 Notice of Warning and Notice of Violation relayed the following information:

This Warning Letter serves as written notice indicating in which respects the shelter has violated the N.C. Animal Welfare Act ("AWA") and the rules issued pursuant thereto. The facility owner is directed to immediately comply with the AWA and its associated rules.

4. On April 27, 2022, AWS assessed a Civil Penalty for violations of NCGS § 19A-32.1(a), (b), (d), (g), (h), (i), and (j) and 02 NCAC 52J .0101(1) – (5); .0103; .0201(h); .0202(d); .0203(a); .0204(a); .0206; and .0210(d) and a Notice of Warning for violation of 02 NCAC 52J .0208.

5. The April 27, 2022 Notice of Civil Penalty and Notice of Warning relayed the following information:

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's registration pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

6. On July 18, 2022, AWS and the shelter reached a Settlement Agreement in regard to the April 27, 2022, Notice of Civil Penalty. In part the Settlement Agreement noted:

Petitioner agrees to abide by and comply with all provisions of the North Carolina Animal Welfare Act (Article 3 of Chapter 19A of the General Statutes) ("AWA") and its associated rules (02 NCAC 52J).

7. On September 12, 2022 and September 13, 2022, AWS received complaints alleging improper care of the animals at the shelter. AWS initiated an investigation based on the information contained in the complaint. The investigation centered on possible violation(s) of the N.C. Animal Welfare Act ("AWA") as these statutes and associated regulations are the extent of the jurisdiction of AWS.

8. On October 3, 2022, AWS Animal Health Technician Christie Shore ("Inspector Shore") conducted a site visit as part of the complaint investigation. The site visit revealed:

- a. in violation of 02 NCAC 52J .0101(5), the weekly medicated baths administered to Rufus were not documented after August 20, 2022;
- b. in violation of 02 NCAC 52J .0201(c) that requires facilities to have adequate electric power, 3 cats were housed in a building that did not have electric power;
- c. in violation of 02 NCAC 52J .0201(d)(3), open cans of dog and cat food that were not refrigerated were observed;
- d. in violation of 02 NCAC 52J .0201(g), a functional room thermometer was not present in the indoor building housing the 3 cats;
- e. in violation of 02 NCAC 52J .0202(a), the building housing the 3 cats did not have a functional heating or cooling system;
- f. in violation of 02 NCAC 52J .0202(d), the interior building surfaces of the building housing the 3 cats were not impervious to moisture and could not be readily sanitized;
- g. in violation of 02 NCAC 52J .0204 (b), the building housing the 3 cats had a large amount of exposed wood. The building was reported to have been used to house the 3 cats since December 2020;
- h. in violation of 02 NCAC 52J .0204(b), damaged wood was present in the room housing the 3 free-roaming small dogs which was next to the Director's office;
- i. in violation of 02 NCAC 52J .0204(f) that requires the height of a primary enclosure or exercise area to be no less than 5 feet tall, the fencing separating two groups of animals in the room next to the Director's office was approximately 2 foot in height;
- j. in violation of 02 NCAC 52J .0207(a), there was an accumulation of fecal waste in the side yard housing the chihuahuas evidencing the failure to properly clean this exercise area a minimum of twice daily;

- k. in violation of 02 NCAC 52J .0209(8), the building housing the 3 cats and the isolation room had been used by free roaming animals as evidenced by the damage to the surfaces and this area had not previously been inspected by AWS prior to the animals being confined in those enclosures;
 - l. in violation of 02 NCAC 52J .0210(d), metronidazole was prescribed by a veterinarian for the cat named Figaro. No medical records were present at the time of the site visit that documented the shelter's administration of this prescribed medication to Figaro;
 - m. in violation of 02 NCAC 52J .0210(d), doxycycline was prescribed by a veterinarian for the dog named Ken. The shelter's medical records show that the shelter did not administer the entire prescribed regime of medication. When asked, the shelter management could not provide a reason for failing to complete the prescribed veterinary care;
 - n. in violation of 02 NCAC 52J .0210(h), the shelter records show that the rabies vaccination for the cat named Clark expired on December 11, 2021; and
 - o. in violation of NCGS § 19A-28, the shelter operator was providing day boarding services for the owner of a previously-adopted shelter dog. The dog's owner donated money to the shelter. The shelter does not currently have an AWS Boarding Kennel license.
9. The March 1, 2022 Notice of Warning and Notice of Violation and the April 27, 2022 Notice of Civil Penalty and Notice of Warning were made available to the shelter owner and can be found on the AWS website at: <http://www.ncagr.gov/vet/aws/>.

CONCLUSIONS

To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels. Based on the findings of this investigation, AWS concludes that the shelter violated the following provisions:

NCGS § 19A-28 for providing boarding services to a member of the public for a fee (donation) without obtaining an AWS Boarding Kennel license;

02 NCAC 52J .0101(5) for failure to maintain records documenting the administration of veterinary care to Rufus;

02 NCAC 52J .0201(c) for failure to provide adequate electric power to the building housing the 3 cats;

02 NCAC 52J .0201(d)(3) for failure to refrigerate open cans of dog and cat food;

02 NCAC 52J .0201(g) for failure to provide a functional room thermometer in the building housing the 3 cats;

02 NCAC 52J .0202(a) for failure to provide a functional heating or cooling system in the building housing the 3 cats;

02 NCAC 52J .0202(d), for failure to provide the interior building surfaces that were impervious to moisture and could be readily sanitized for the building housing the 3 cats;

02 NCAC 52J .0204(b) for housing the 3 cats in a building with a large amount of exposed wood;

02 NCAC 52J .0204(b) for allowing wood to be within the animals' reach in the room housing the 3 free-roaming small dogs which was next to the Director's office;

02 NCAC 52J .0204(f) for failure to provide fencing separating two groups of animals in the room next to the Director's office that was a minimum of 5 feet tall;

02 NCAC 52J .0207(a) for failure to properly clean the side yard exercise area housing the chihuahuas a minimum of twice daily;

02 NCAC 52J .0209(8) for confining animals in the building housing the 3 cats and the isolation room before inspection by AWS;

02 NCAC 52J .0210(d), for failing to provide prescribed veterinary care to Figaro;

02 NCAC 52J .0210(d), for failing to provide prescribed veterinary care to Ken; and

02 NCAC 52J .0210(h) for failure to maintain the cat named Clark in compliance with the NC rabies law, G.S. 130A, Article 6, Part 6.

CIVIL PENALTIES

As required by NCGS § 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, Faithful Friends Animal Sanctuary is hereby assessed a civil penalty for the following violations:

\$200.00 for the second violation of 02 NCAC 52J .0101(5) for failure to maintain records documenting veterinary care provided to Rufus. The first violation was cited in the April 27, 2022 Civil Penalty;

\$100.00 for violation of 02 NCAC 52J 0201(c) for failure to provide adequate electric power to the building housing the 3 cats;

\$100.00 for violation of 02 NCAC 52J .0201(g) for failure to provide a functional room thermometer in the building housing the 3 cats;

\$200.00 for violation of 02 NCAC 52J .0202(a) for failure to provide a functional heating or cooling system in the building housing the 3 cats;

\$100.00 for violation of 02 NCAC 52J .0202(d), for failure to provide the interior building surfaces that were impervious to moisture and could be readily sanitized for the building housing the 3 cats;

\$200.00 for 2 violations of 02 NCAC 52J .0204(b) (\$100.00 per violation) for allowing wood to be within the animals' reach in the building housing the 3 cats and the enclosure housing the 3 dogs;

\$200.00 violation of 02 NCAC 52J .0207(a) for failure to properly clean the side yard exercise area housing the chihuahuas a minimum of twice daily;

\$400.00 for 2 violations of 02 NCAC 52J .0210(d) (\$200.00 per violation) for failing to provide prescribed veterinary care to Figaro and Ken; and

\$200.00 for the second violation of 02 NCAC 52J .0210(h) for failure to maintain the cat named Clark in compliance with the NC rabies law, G.S. 130A, Article 6, Part 6. The first violation was cited in the April 27, 2022 Civil Penalty.

\$1,700.00 TOTAL AMOUNT ASSESSED

NOTICE of WARNING

As to the remaining violations of NCGS § 19A-28 and 02 NCAC 52J .0201(d)(3); .0204(f); .0209(8) to this Warning Letter serves as written notice indicating in which respects the shelter may have violated the NC Animal Welfare Act and the rules issued pursuant thereto.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's registration pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

(See Appendix for text of referenced General Statutes and Administrative Code)

November 3, 2022
Date

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

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-26. Certificate of registration required for animal shelter.

No person shall operate an animal shelter unless a certificate of registration for such animal shelter shall have been granted by the Director. Application for such certificate shall be made in the manner provided by the Director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided. (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year. (1977, 2nd Sess., c. 1217, s. 9; 1987, c. 827, s. 65; 1989, c. 544, s. 18; 2011-145, s. 31.5(b).)

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended

or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 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.

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:

- (5) record of veterinary care including medications, treatments, procedures, and immunizations. The record shall include: diagnosis(es), diagnostic testing and results, date and time of administration or procedure, description of medication and initials of person administering any product, medication or procedure. The description of the medication shall include the name, strength or concentration, dosage, and dosing regimen. The dosage regimen shall include the frequency, duration to include the number of dosages or days to be given and the reason for the administration; and

*History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985;
Readopted Eff. September 1, 2022.*

02 NCAC 52J .0201 GENERAL

(c) Facilities shall have adequate electric power to comply with the Animal Welfare Act.

(d) Storage of food and bedding:

- (1) food and bedding shall be stored in cabinets and/or sealed containers which adequately protect such supplies against infestation or contamination by vermin and insects;
- (2) all open bags of food and edible treats shall be stored in airtight containers with lids;
- (3) refrigeration shall be provided for supplies of perishable food including opened cans of food;

(g) Each facility shall have the ability to confirm ambient temperature. A functional room thermometer shall be present in each separate area of indoor enclosures, common areas and exercise areas.

History Note: Authority G.S. 19A-24; 19A-30(3);
Eff. April 1, 1984;
Amended Eff. January 1, 2005;
Readopted Eff. October 1, 2022.

02 NCAC 52J .0202 INDOOR FACILITIES

(a) Heating and cooling of indoor facilities:

- (1) indoor facilities for dogs and cats shall be adequately heated and cooled to protect the dogs and cats from cold and heat and provide for their health and comfort;
- (2) the ambient temperature shall not be allowed to fall below 50 degrees F or exceed 85 degrees F; and
- (3) special provisions shall be provided to any animal that cannot maintain its normal body temperature. These special provisions shall be sufficient for the animal to maintain its normal body temperature and shall be documented in the animal's record.

(d) Interior building surfaces of indoor facilities with which animals come in contact shall be constructed and maintained so that they are impervious to moisture and can be readily sanitized.

History Note: Authority G.S. 19A-24; 19A-30(3);
Eff. April 1, 1984;
Amended Eff. January 1, 2005;
Readopted Eff. September 1, 2022.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(b) For primary enclosures and exercise areas placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures and exercise areas in use in a licensed or registered facility prior to January 1, 2005, any damaged wood shall be replaced in a manner that does not permit contact with wood by the animal.

(f) The height of a primary enclosure or an exercise area other than a cage shall be no less than five feet tall.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985;
Readopted Eff. September 1, 2022.

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures, exercise areas and common 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 shall 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.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005; April 1, 1985;
Readopted Eff. September 1, 2022.

02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION

Animals housed in the same primary enclosure or confined to an exercise area shall be maintained in compatible groups, with the following additional restrictions:

- (8) All animals shall be confined in primary enclosures or exercise areas. Primary enclosures and exercise areas shall be inspected by the Animal Welfare Section and in compliance with the rules of this Subchapter before an animal can be confined in the enclosure or area.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. January 1, 2005;
Readopted Eff. September 1, 2022.

02 NCAC 52J .0210 VETERINARY CARE

(d) Each dog and cat shall be observed daily by the animal caretaker who has been adequately trained or is experienced in animal care or is under the direct supervision of a person who has such training or experience. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with adequate veterinary care in a timely manner or be euthanized, provided that the euthanasia shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If an animal cannot be euthanized due to a required holding period and does not meet the criteria of G.S. 19A-32.1(b)(2), then adequate veterinary care shall be provided to the animal.

(h) All animals in a licensed or registered facility shall be in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. This subsection shall not apply to animals which have been in the facility less than 15 days.

History Note: Authority G.S. 19A-24;
Eff. April 1, 1984;
Amended Eff. March 23, 2009; January 1, 2005;
Readopted Eff. September 1, 2022.