



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

July 26, 2017

Clarence Grier
Guilford Deputy County Manager
P. O. Box 3427
Greensboro, North Carolina 27402
Via Hand Delivery

NOTICE OF CIVIL PENALTY

**Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02
N.C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0203(c) and .0210(c) and (d).**

AWS-CP-2017-11

Facility: Guilford County Animal Shelter, License #151

Dear Deputy County Manager Grier:

Pursuant to N.C. General Statute § 19A-40, I am issuing this notice to you that Guilford County is assessed a civil penalty of \$2,500.00 as provided in the enclosed Notice of Violations.

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. General Statute § 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 N.C. General Statute § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings ("OAH") within 60 days of your receipt of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to OAH. 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 be 'PN' followed by a horizontal line.

Patricia Norris, DVM MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

IN THE MATTER OF

GUILFORD COUNTY
OPERATOR OF
GUILFORD COUNTY ANIMAL
SHELTER

) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
)
) FOR VIOLATIONS OF 02 N.C.
) ADMINISTRATIVE CODE (NCAC)
) 52J .0203(c) and .0210(d).
)

Acting pursuant to N.C. General Statute § 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, Guilford County Animal Shelter operated by Guilford County ("the shelter") was an animal shelter, registered pursuant to N.C. General Statute §19A-26.
2. On July 18, 2017, AWS Animal Health Technicians Christie Shore and Jay Blatche ("Inspector Shore" and "Inspector Blatche") conducted a follow-up facility inspection of the shelter. At the time of the inspection, 12 animals were housed in outside enclosures at the back of the shelter that did not contain dog houses or otherwise provide protection from excessive sun. At the time of the inspection, it was very hot and the animals were in the direct sun. These kennels have metal sheeting on top, sides and back of the kennels which intensifies the sun's heat within the enclosures. In addition, for the majority of the day and particularly during the heat of the day, the angle of the sun is such that little to no shade is provided.
3. On previous inspections, Inspectors Shore and Blatche had directed the Shelter Director not to use those enclosures to house animals.
4. Upon observing the animals housed in enclosures that did not provide protection from excessive exposure to the sun during the July 18, 2017 facility inspection, Inspectors Shore and Blatche directed the Shelter Director to remove the 12 animals from the enclosures immediately. Inspector Shore reminded the Shelter Director of the regulation requiring that enclosures provide protection from excessive sun.
5. A review of records during the July 18, 2017 inspection identified an adult cat, intake number A35743258, that was impounded on June 23, 2017 and which had not received a rabies vaccination. At the time of the inspection, the animal had been housed at the shelter for 25 days.

CONCLUSIONS

As a result of this investigation, AWS concludes that the shelter, either by act or omission, violated the provisions:

02 NCAC 52J .0203(c) in confining 12 animals to enclosures for which there was no protection from excessive sun on July 18, 2017; and

02 NCAC 52J .0210(d) in failing to issue a rabies vaccination to the adult cat, intake number A35743258, observed on July 18, 2017.

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

CIVIL PENALTIES

As required by N.C. General Statute § 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, Guilford County as operator of the Guilford County Animal Shelter is hereby assessed a civil penalty for the following violations:

- 1) \$2,400.00 for 12 violations of Title 02 North Carolina Administrative Code 52J .0203(c); and
- 2) \$100.00 for violation of Title 02 North Carolina Administrative Code 52J .0210(d)

\$2,500.00 TOTAL AMOUNT ASSESSED

July 26 2017
Date



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

Appendix

RELEVANT LAWS AND REGULATIONS

§ 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 .0203 OUTDOOR FACILITIES

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

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

02 NCAC 52J .0210 VETERINARY CARE

(d) 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. However, no shelter shall be disapproved following inspection or otherwise cited for failure to inoculate any dog or cat known to be less than 12 weeks old or until such animals have been in the shelter at least 15 days

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