



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

December 28, 2022

Robin Laffin
Loiselle's
367 Mustang Drive
Red Springs, North Carolina 28377

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(1), and (2); .0203(d)(2), and (e); .0207(a), (d)(3)(B), and (e) and .0210(h) and NOTICE OF WARNING for VIOLATION of 02 NCAC 52J .0201(m).

AWS-CP-2022-20

Facility: Loiselle's
Registration Number: 167

Dear Ms. Laffin:

Pursuant to NCGS § 19A-40, I am issuing this notice that you as owner of Loiselle's ("the shelter") is hereby assessed a civil penalty of \$1,500.00 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 dark ink, appearing to read "Patricia Norris DVM, MS". The signature is fluid and cursive, with the last name "Norris" being the most prominent part.

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

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

IN THE MATTER OF	)	NOTICE of VIOLATION and
	)	ASSESSMENT of CIVIL PENALTY
ROBIN LAFFIN	)	for VIOLATIONS of TITLE 02 NC
	)	ADMINISTRATIVE CODE ("NCAC")
OWNER OF	)	CHAPTER 52J SECTIONS .0101(1),
	)	and (2); .0203(d)(2), and (e); .0207(a),
LOISELLE'S	)	(d)(3)(B) and (e); and .0210(h); and NOTICE
	)	of WARNING for VIOLATION of 02 NCAC
	)	52J .0201(m).
	)	

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, Loiselles ("the shelter") owned by Robin Laffin was an animal shelter, registered pursuant to NCGS § 19A-26.
2. On November 15, 2022, AWS Animal Health Technician Elizabeth Garner ("Inspector Garner") conducted a Facility Compliance Inspection ("FCI"). This FCI was noted as "Disapproved" due to the number, severity, and repetitive nature of the violations. The violations cited included the following:
 - a. failure to maintain records of the origin of animals as required by 02 NCAC 52J .0101(1);
 - b. failure to maintain records of the description of animals as required by 02 NCAC 52J .0101(2);
 - c. failure to maintain records of the location of the animals when not housed at the shelter facility as required by 02 NCAC 52J .0101(3);
 - d. failure to maintain records of veterinary care administered to the animals as required by 02 NCAC 52J .0101(5). All of the violations concerning records had been previously cited on numerous prior FCIs;
 - e. failure to be able to match the records to the animals as required by 02 NCAC 52J .0103;
 - f. failure to protect food from infestation or contamination by vermin as required by 02 NCAC 52J .0201(1). This violation was previously cited during the April 25, 2022 FCI;
 - g. failure to properly store clean laundry in cabinets or sealed containers as required by 02 NCAC 52J .0201(d)(4);
 - h. failure to provide one house for each dog within an outdoor enclosure as required by 02 NCAC 52J .0203(d)(2). This violation was previously cited during the April 25, 2022 FCI;
 - i. failure to provide protection from inclement weather in outdoor enclosures as required by 02 NCAC 52J .0203 (e). The tarps in place as wind blocks were too tattered to protect the animals from the wind. This violation was previously cited on the April 25, 2022 FCI;

- j. failure to provide suitable method of drainage in the outdoor enclosures as required by 02 NCAC 52J .0203(h). This violation was previously cited on the April 25, 2022 FCI;
- k. failure to remove wastes from enclosures as required by 02 NCAC 52J .0207(a);
- l. failure to dry enclosures after cleaning prior to returning the animal to the enclosure as required by 02 NCAC 52J .0207(d)(3)(B). This violation was previously cited on the April 25, 2022 FCI;
- m. failure to keep premises clean and free of accumulations of trash, junk, waste products and discarded matter as required by 02 NCAC 52J .0207(e). This violation was previously cited during the April 25, 2022 FCI;
- n. failure to control weeds, grasses and brush as required by 02 NCAC 52J .0207(e).
- o. failure to establish an effective program for the control of pests as required by 02 NCAC 52J .0207(f); and
- p. failure to maintain records required by NCGS § 19A-32.1(g) – (j).

3. On November 28, 2022, AWS received a complaint concerning the adoption of a German Shepherd and the conditions at the shelter. Based on this information, AWS opened an investigation. 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.

4. As part of the complaint investigation, Inspector Garner conducted a site visit on December 1, 2022. The site visit findings include:

- a. the information relative to the origin of the German Shepherd such as where the animal came from was not complete and did not contain the information required by 02 NCAC 52J 0101(1);
- b. the description of the German Shepherd was not in the animal’s record as required by 02 NCAC 52J .0101(2);
- c. when asked why the German Shepherd did not receive a rabies vaccination while housed at the shelter, the shelter owner stated that the dog had only been housed there a week and therefore, was not required to have a rabies vaccination. A review of the records for that dog show that the dog was housed at the shelter for 1 month before its adoption and therefore, was required to have received a rabies vaccination. In providing the inaccurate information in what appeared to be an attempt to avoid the citation of a violation during an investigation, the shelter owner violated 02 NCAC 52J .0201(m) which requires all agents of the facility to be truthful with NCDA&CS employees during all phases of inspections or investigations;
- d. not all outdoor enclosures had one house for each dog as required by 02 NCAC 52J 0203(d)(2). This violation was previously cited during the April 25, 2022, and the November 15, 2022, FCIs;
- e. the tattered tarps in place as wind blocks failed to provide protection from inclement weather in outdoor enclosures as required by 02 NCAC 52J .0203(e). This violation was previously cited during the April 25, 2022, and November 15, 2022, FCIs;
- f. an enclosure had a significant accumulation of fecal waste present. The shelter owner relayed that the enclosure had been empty for several days. The failure to properly clean the enclosure a minimum of twice daily was in violation of 02 NCAC 52J .0207(a). This violation was previously cited during the November 15, 2022, FCI;
- g. failure to dry the floors of the outdoor enclosures after cleaning but prior to returning the animals to the enclosures in violation of by 02 NCAC 5J .0207(d)(3)(B) as previously cited during the November 15, 2022 FCI;
- h. the premises was not clean, and accumulations of trash, cages and equipment no longer in use,

bags of items, and discarded bowls and other matter were present in violation of by 02 NCAC 52J .0207(e). This violation was previously cited during the April 25, 2022, and November 14, 2022, FCIs; and

- i. the German Shepherd noted in the complaint was approximately 1 year of age and had been housed at the shelter for 1 month. This dog did not receive a rabies vaccination as required by 02 NCAC 52J .0210(h);
5. As part of the investigation, the AWS documents relative to the shelter were reviewed. This documentation noted that AWS previously issued a Notice of Civil Penalty to the owner of the shelter on February 14, 2019. The February 14, 2019, Civil Penalty was assessed for violations of NCGS §19-A 32.1(h) and (j) and 02 NCAC 52J .0101(1), (2) and (4).
 6. The February 14, 2019, Notice of Civil Penalty and the April 25, 2022, and November 15, 2022, FCI reports were made available to the shelter 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:

02 NCAC 52J .0101(1) for failure to maintain records of the origin of the German Shepherd;

02 NCAC 52J .0101(2) for failure to maintain the required records regarding the description of the German Shepherd;

02 NCAC 52J .0201(m) for failure to be truthful during an investigation by NCDA&CS employee on December 1, 2022;

02 NCAC 52J .0203(d)(2) for failure to provide one house for each dog within an outdoor enclosure on December 1, 2022;

02 NCAC 52J .0203(e) for failure to provide protection from inclement weather in outdoor enclosures on December 1, 2022;

02 NCAC 52J .0207(a) for failure to properly clean enclosures a minimum of twice daily as observed on December 1, 2022;

02 NCAC 5J .0207(d)(3)(B) for failure to dry the floors after cleaning the outdoor enclosures prior to returning animals to the enclosures on December 1, 2022;

02 NCAC 52J .0207(e) for failure to keep the premises clean, and for allowing trash, junk, and discarded matter to accumulate; and

02 NCAC 52J .0210(h) for failure to obtain a rabies vaccination for the German Shepherd that was approximately 1 year of age and had been housed at the shelter for 1 month.

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, Robin Laffin as owner of Loisselle's is hereby assessed a civil penalty for the following violations:

\$200.00 for the second violation of 02 NCAC 52J .0101(1) for failure to maintain records of the origin of the German Shepherd;

\$200.00 for the second violation of 02 NCAC 52J .0101(2) for failure to maintain the required records regarding the description of the German Shepherd;

\$200.00 for the violation of 02 NCAC 52J .0203(d)(2) for failure to provide one house for each dog within an outdoor enclosure on December 1, 2022;

\$200.00 for the violation of 02 NCAC 52J .0203(e) for failure to provide protection from inclement weather in outdoor enclosures on December 1, 2022;

\$200.00 for the violation of 02 NCAC 52J .0207(a) for failure to properly clean enclosures a minimum of twice daily as observed on December 1, 2022;

\$200.00 for the violation of 02 NCAC 5J .0207(d)(3)(B) for failure to dry the floors after cleaning the outdoor enclosures prior to returning animals to the enclosures on December 1, 2022;

\$200.00 for the violation of 02 NCAC 52J .0207(e) for failure to keep the premises clean and free of accumulations of trash, junk, and discarded matter; and

\$100.00 for the violation of 02 NCAC 52J .0210(h) for failure to obtain a rabies vaccination for the German Shepherd that was approximately 1 year of age and had been housed at the shelter for 1 month.

\$1,500.00 TOTAL AMOUNT ASSESSED

NOTICE of WARNING

As to the remaining violation of 02 NCAC 52J .0201(m) for failure to be truthful during an investigation by NCDA&CS employee on December 1, 2022, 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)

December 28, 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-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:

- (1) origin of animals (including names and addresses of consignors) and date animals were received;
- (2) description of animals including species, estimated age, sex, breed or breed type, and color markings;

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

(m) A licensee or registrant and all agents of the facility shall be truthful with NCDA&CS employees during all phases of inspections or investigations.

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 .0203 OUTDOOR FACILITIES

(d) Dogs and cats in outdoor primary enclosures shall be provided housing to allow them to remain dry and comfortable during inclement weather:

- (1) housing shall be constructed of material which is impervious to moisture and which can be cleaned and sanitized in accordance with 02 NCAC 52J .0207;
- (2) one house shall be available for each animal within each primary enclosure. The house(s) shall be of adequate size for the animal housed in the enclosure. In the case of a mother and her unweaned offspring, one house of adequate size to comfortably house the mother and all the offspring together must be provided;
- (3) housing structures in outdoor facilities must contain clean, dry bedding or a heat source when the temperature falls below 32 degrees F;
- (4) special provisions shall be provided to any animal that cannot maintain its normal body temperature when housed outside. These special provisions shall be adequate for the animal

to maintain its normal body temperature and shall be documented in the animal's record. If the animal cannot maintain its normal body temperature even with special provisions, then that animal shall not be housed outside. No infirm animal may be housed outdoors; and

- (5) in addition to housing, the enclosure shall provide protection from excessive sun and inclement weather.

(e) Dogs and cats in outdoor areas shall be provided adequate protection from inclement weather and the Sun. This protection shall be sufficient to protect all animals simultaneously in the exercise area. If an animal cannot maintain its normal body temperature in an outdoor exercise area, the animal shall not be placed in an outside exercise area.

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

(e) 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.

*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 .0210 VETERINARY CARE

(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.*