



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 15, 2022

Sheriff Steve Hiatt
Surry County Sheriff's Office
P. O. Box 827
Dobson, NC 27017

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 .0206(a); and NOTICE OF WARNING for VIOLATIONS of NC GENERAL STATUTE ("NCGS") § 19A-32.1 and 02 NCAC 52J .0101(3) and (4); and .0209(8).

AWS-CP-2022-17

Facility: Surry County Sheriff's Office Animal Control Animal Shelter
Registration Number: 55

Dear Sheriff Hiatt:

Pursuant to NCGS § 19A-40, I am issuing this notice that Surry County Sheriff's Office is hereby assessed a civil penalty of \$200.00 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.

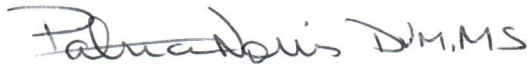
You must serve NCDA&CS by mailing a copy of the petition to:

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

SURRY COUNTY SHERIFF'S OFFICE	)	NOTICE OF VIOLATION and
	)	ASSESSMENT of CIVIL PENALTY
ANIMAL CONTROL ANIMAL SHELTER	)	for VIOLATIONS of TITLE 02 NC
	)	ADMINISTRATIVE CODE ("NCAC")
	)	CHAPTER 52J SECTION .0206(a); and
	)	NOTICE of WARNING for VIOLATIONS
	)	of NC GENERAL STATUTE § 19A-32.1 and
	)	02 NCAC 52J .0101(3) and (4); 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, the Surry County Sheriff's Office Animal Control Animal Shelter ("the shelter") located at 172 County Home Road, Dobson, NC was an animal shelter, registered pursuant to NCGS § 19A-26.
1. On September 27, 2022, AWS received a complaint concerning the euthanasia of a cat. AWS initiated an investigation based on this information. 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.
2. As part of the complaint investigation, AWS Animal Health Technician Lindsey Harris ("Inspector Harris") conducted a site visit on September 27, 2022. The site visit findings include:
 - a. during the intake of the cat (Shelter animal number #96567), it was apparent there was conflicting information whether this cat was a stray or owned as defined by the Surry County ordinance;
 - b. the cat was euthanized the same day it was taken in by the shelter instead of being held for the minimum hold period of 72 hours required by NCGS § 19A-32.1(a) for stray animals;
 - c. while an exception for the 72-hour minimum hold period is allowed by NCGS § 19A-32.1(b)(3) for seriously ill or injured animals, this cat had been examined by a veterinarian the same day it was taken in by the shelter. The veterinary medical examination of the cat did not reveal any serious illness or injury;
 - d. the shelter provided a photograph to AWS as proof that the cat was injured. The photograph showed a small amount of hair loss around the muzzle of a cat. The staff relayed that this photograph was taken 1-2 days after the cat #96567 was euthanized and place in the freezer. The animals in the freezer were not labeled as to their identification number;
 - e. during the site visit 6 dogs and 1 cat did not have continuous access to water in violation of 02

NCAC 52J .0206. Inspector Harris discussed the requirement for continuous access to water with the staff during this site visit;

- f. a grey and white kitten was noted to be confined to the front office, which is not a primary enclosure or exercise area in violation 02 NCAC 52J .0209(8); and
- g. a review of shelter records during this site visit revealed that, in violation of 02 NCAC 52J .0101(4), the address of the person to whom the dog #96568 was released was not documented. Inspector Harris discussed the requirements for record keeping with the staff.

- 3. On October 24, 2022, Inspector Harris conducted a Facility Compliance Inspection (“FCI”), in part to verify that the corrective actions implemented by the shelter since the September 27, 2022 site visit were in place. The October 24, 2022 FCI showed the following:
 - a. in violation of 02 NCAC 52J .0101(3), the locations of the animals #96749 and #96760 that were not housed at the shelter, but were housed with foster care providers were not documented as required;
 - b. in violation of 02 NCAC 52J .0101(4), the required information relative to the disposition of animals #95261, #96693, #96738, and #96798 was not documented;
 - c. 2 puppies in an outdoor enclosure did not have continuous access to water in violation of 02 NCAC 52J .0206(a);
 - d. in violation of NCGS § 19A-32.1(a), animal #95261 may have been transferred to a rescue organization prior to the end of its 72-hour minimum stray hold as the shelter failed to document the date of disposition.
- 4. The October 24, 2022 FCI report was 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:

NCGS § 19A-32.1(a) for failing to hold a stray animal for the minimum 72- hour hold prior to disposition of animals #96567 and #95261;

02 NCAC 52J .0101(3) for failure to maintain records documenting the locations of animals #96749 and #96760 including the complete address and contact information, as the animals were not being kept at the registered facility;

02 NCAC 52J .0101(4) for failure to maintain the required records regarding the disposition of animals #95261, #96693, #96738, and #96798;

02 NCAC 52J .0206(a) for failure to provide continuous access to water to 6 dogs and 1 cat on September 27, 2022 and 2 puppies on October 24, 2022; and

02 NCAC 52J .0209(8) for failure to confine the grey and white kitten in a primary enclosure or exercise area on September 27, 2022.

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, Surry County Sheriff's Office is hereby assessed a civil penalty for the following violations:

\$200.00 for violation for failure to provide the 2 puppies with continuous access to water on October 24, 2022

\$200.00 TOTAL AMOUNT ASSESSED

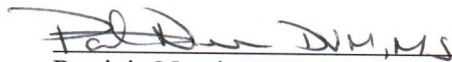
NOTICE of WARNING

As to the remaining violations of NCGS § 19A-32.1(a) and 02 NCAC 52J .0101(3) and (4); and .0209(8) 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 15, 2022
Date



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-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of.

(b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:

- (2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.

§ 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:

- (3) location of animal, including complete address and contact information, 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, transferred, or adopted, and the date and time of such transaction; name and address of intermediary transporter if used; in the event of death, the record shall show the date, signs of illness, and cause of death if identified; if euthanized, the record shall show date and type of euthanasia;

*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 .0206 WATERING

(a) Animals shall have continuous access to fresh, potable water, except as might otherwise be required to provide adequate veterinary care.

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