



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

July 10, 2017

Eric Evans
Edgecombe County Manager
201 St. Andrew Street
Tarboro, NC 27886

NOTICE OF CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF TITLE 02 N.C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(1) and (5), .0209(6)(a) - (c) and .0210(d).

AWS-CP-2017-8

Facility: Edgecombe County Animal Shelter, License #86

Dear County Manager Evans:

Pursuant to N.C. General Statute § 19A-40, I am issuing this notice to you that the Edgecombe County is assessed a civil penalty of \$900.00 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 accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("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 read "Patricia Norris".

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 |) | NOTICE OF VIOLATIONS |
| |) | ASSESSMENT OF CIVIL PENALTY |
| EDGECOMBE COUNTY |) | |
| OPERATOR OF |) | FOR VIOLATIONS TITLE 02 N. C. |
| EDGECOMBE COUNTY ANIMAL |) | ADMINISTRATIVE CODES (NCAC) |
| SHELTER |) | 52J .0101(1) and (5), .0209(6)(a) – (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, Edgecombe County Animal Shelter operated by Edgecombe County (“the shelter”) was an animal shelter, registered pursuant to N.C. General Statute §19A-26.
2. On June 12, 2017, AWS received a complaint concerning the care of the animals housed at the shelter. Based on the information within this complaint, AWS opened an investigation. The investigation included review of the information contained in the complaint, a site visit by AWS Animal Health Technician Lisa Carlson (“Inspector Carlson”), interviews with the shelter management, staff and a volunteer, observation of animals currently in the care of the shelter, and review of the relevant shelter documentation.
3. On June 19, 2017, Inspector Carlson conducted a site visit at the shelter as part of the investigation. At that time, she interviewed the shelter management, staff and a volunteer concerning this complaint. The staff acknowledged that three dogs named in the complaint had been impounded on different dates at the shelter.
4. On June 19, 2017, Inspector Carlson reviewed the shelter’s documentation for the three dogs noted in the complaint. The paperwork for the dog named “Sprinkler” was missing the information required by 02 NCAC 52J .0101(1). This animal’s record was also incomplete as it did not document the veterinary care administered to this dog as required by 02 NCAC 52J .0101(5).
5. Inspector Carlson’s review of the relevant shelter records also revealed that the animal record for the dog named “Florida” was incomplete as it lacked the documentation of the veterinary care administered to this dog as required by 02 NCAC 52J .0101(5).
6. On June 19, 2017 Inspector Carlson observed all the animals in the care of the shelter on that day. She observed 30 dogs and 10 cats. All the animals except for 1 dog appeared to be in good condition. The dog, Intake #389, appeared to be too thin, had been at the shelter for more than 30 days, was aggressive and hyperactive in the kennel and was scheduled to be euthanized the next day. The shelter did not have a record of a current rabies vaccination for this dog and had not administered a rabies vaccination to this dog as required by 02 NCAC 52J .0210(d).

7. On June 19, 2017, while discussing the care of the dog noted in Section 6 above, Inspector Carlson asked the shelter management about the shelter's care for animals housed for more than 30 consecutive days. Long-term care must be provided in accordance with 02 NCAC 52J .0209(6)(a) – (c). The shelter management stated that due to low staffing levels, that the required long-term care was not being provided by the shelter.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that the shelter either by act or omission, violated the provisions of Title 02 North Carolina Administrative Codes 52J .0101(1) and (5), .0209(6)(a) – (c) and .0210(d).

(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, Edgecombe County as operator of the Edgecombe County Animal Shelter is hereby assessed a civil penalty for the following violations:

- 1) \$100.00 for violation of Title 02 North Carolina Administrative Code 52J .0101(1);
- 2) \$200.00 for 2 violations of Title 02 North Carolina Administrative Code 52J .0101(5);
- 3) \$500.00 for violation of Title 02 North Carolina Administrative Code 52J .0209(6)(a) – (c); and
- 4) \$100.00 for violation of Title 02 North Carolina Administrative Code 52J .0210(d)

\$900.00 TOTAL AMOUNT ASSESSED

July 10, 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 .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;
- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

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:

- (6) Animals in long term care which are intended for adoption or sale must be provided the following:
 - (a) Daily access to both human and same species social interaction.
 - (b) Daily access to space other than the primary enclosure.
 - (c) A species and size-appropriate toy, unless it poses a health threat.

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