



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

February 8, 2023

Max and Della Fitz-Gerald, Owners
For the Love of Dogs
5146 Quaker Road
Wilson, North Carolina 27893
and via email:
fitzgeralddella@gmail.com

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATION of NCGS §19A-26

AWS-CP-2023-3

**Facility: For the Love of Dogs Animal Shelter
Registration Number 232 - expired**

Dear Drs. Fitz-Gerald:

Pursuant to NCGS § 19A-40, I am issuing this notice that For the Love of Dogs (“the shelter”) and Drs. Max and Della Fitz-Gerald individually as owners and operators of the shelter are hereby assessed a civil penalty of \$5,000.00 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 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

STATE OF NORTH CAROLINA
COUNTY OF WAKE

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

IN THE MATTER OF)
FOR the LOVE of DOGS)
and)
DRS. MAX and DELLA FITZ-GERALD)
INDIVIDUALLY AS OWNERS of)
FOR the LOVE of DOGS)
ANIMAL SHELTER)
)

NOTICE of VIOLATION and
ASSESSMENT of CIVIL PENALTY
for VIOLATION of NC GENERAL
STATUTE (“NCGS”) §19A-26

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, For the Love of Dogs Animal Shelter (“the shelter”), owned and operated by Drs. Max and Della Fitz-Gerald, was an animal shelter, registered or previously registered pursuant to NCGS §19A-26.
2. On February 22, 2022, AWS Animal Health Technician Lisa Carlson (“Inspector Carlson”) conducted a facility compliance inspection (“FCI”) of the shelter. This FCI was marked as “Disapproved” due to the number and severity of the violations of the North Carolina Animal Welfare Act (“AWA”) and its associated regulations. The shelter was found to be in violation of 02 NCAC 52J .0201(d) and (e); .0207(a), (b)(3), (4), and (6); and (c); and .0209(6)(c). The FCI also noted that the shelter “Needs Improvement” in compliance with the following rules: 02 NCAC 52J .0201(a) and (b); .0202(b); .0203(a); 0204(a); .0205(b); .0206; .0207(b)(1); and .0208. A copy of the February 22, 2022 FCI is attached hereto and incorporated by reference.
3. On March 18, 2022, Inspector Carlson conducted a FCI of the shelter. This FCI was marked as “Disapproved” due to the number, severity, and repetitive nature of the violations of the AWA and its associated regulations. The shelter was found to be in violation of 02 NCAC 52J .0201(a), (b), (d), and (e); .0202(b); .0203(a); .0204(a); .0205(b); .0207(a), (b)(1), (3), (4), and (6); and (c); .0208; and .0209(6)(c). A copy of the March 18, 2022 FCI is attached hereto and incorporated by reference.
4. On April 20, 2022, Inspector Carlson conducted a FCI of the shelter. This FCI was marked as “Disapproved” due to the number, severity, and repetitive nature of the violations of the AWA and its associated regulations. The shelter was found to be in violation of 02 NCAC 52J .0201(a), (d), and (e); .0202(b) and (d); .0203(a); .0204(a); .0205(a) and (b); .0206; .0207(a), (b)(1), (4), and (6); (c) and (d); .0208; and .0209(6)(c). A copy of the April 20, 2022 FCI is attached hereto and incorporated by reference.

5. On May 12, 2022, AWS issued a Notice of Warning and Notice of Violation to the shelter for violation of 02 NCAC 52J .0201(a), (d), and (e); .0202(b) and (d); .0203(a); .0204(a); .0205(a) and (b); .0206; .0207(a), (b)(2), (3), (4), and (6), (c) and (d); .0208; and .0209(6)(c). This Notice also informed the shelter that AWS may not approve a renewal application for the animal shelter registration should the shelter not comply with the AWA and its associated rules. AWS did not receive a response from the shelter concerning this Notice. A copy of the May 12, 2022 Notice of Warning and Notice of Violation is attached hereto and incorporated by reference.
6. On July 5, 2022, Inspector Carlson conducted a facility compliance inspection (“FCI”) of the shelter. This FCI was marked as “Disapproved” due to the number, severity, and repetitive nature of the violations of the AWA and its associated regulations. The July 5, 2022 FCI noted violations of 02 NCAC 52J .0201(a), (b), (d) and (e); .0202(b) and (d); .0203(a); 0204(a), (b) and (c); .0205(a) and (b); .0206; .0207(a), (b)(2), (4) and (6), (c) and (d); .0208; and .0209(6)(c). A copy of the July 5, 2022 FCI is attached hereto and incorporated by reference.
7. The shelter’s certificate of registration expired on June 30, 2022. The shelter has not held a valid animal shelter certificate of registration as required by N.C.G.S. § 19A-26 since that time but has continued to operate as an animal shelter. The shelter did not have an “Approved” FCI for the entire registration period from July 1, 2021, to June 30, 2022.
8. On August 9, 2022, AWS received an animal shelter registration renewal application for the shelter. At the time of submitting its current renewal application, the shelter had 4 consecutive “Disapproved” FCIs and had shown no sustained improvement in the repeatedly noted areas of non-compliance with the AWA and its associated rules.
9. On August 25, 2022, AWS issued a Notice of Intent to Deny License Renewal and Notice of Deficiencies. In that Notice, the shelter was given the opportunity to submit any information that the shelter believed showed the shelter’s compliance with all lawful requirements for renewal of the animal shelter registration. The Notice also informed the shelter that if the shelter should choose not to submit any information, AWS will proceed with its final decision with the information available. Additionally, the letter explained that this Notice in no way limited AWS’s ability to take further enforcement action against the shelter for new or future violations. Furthermore, it noted that if the violations that resulted in the Notice continue or are ongoing in nature, AWS maintained the right to take additional enforcement actions as authorized by law.
10. On August 30, 2022, AWS received an email from the shelter in response to the Notice of Intent to Deny License Renewal and Notice of Deficiencies. The email noted the implementation of a few corrective actions and requested an in-person meeting at the shelter. Inspector Carlson and Dr. Patricia Norris, Director, AWS, Veterinary Division, NCDA&CS met with the shelter owners on September 7, 2022 at the shelter.
11. Thereafter, AWS thoroughly reviewed and considered all information submitted by the shelter. The review of the information provided by the shelter in the August 30, 2022 response and the September 7, 2022 meeting at the animal shelter did not alter or mitigate the violations detailed in the August 25, 2022 Notice of Intent to Deny Animal Shelter Registration Renewal and Notice of Deficiencies. At best, the responses from the shelter alleged an intent to hopefully correct existing and on-going

violations at some point in the future and provided no evidence that the shelter met the requirements for possession of a certificate of registration.

12. On September 15, 2022 AWS issued a Notice of Denial of Animal Shelter Registration Renewal and Notice of Deficiencies due to willful disregard and violation of the AWA and its rules, failure to provide adequate housing facilities and enclosures for the purposes of the AWA, failure to provide feeding, watering and housing practices consistent with the intent of the AWA and its associated rules and failure to possess the necessary qualifications to meet the requirements of the AWA for the holding of an animal shelter certificate of registration. The September 15, 2022 Notice of Denial of Animal Shelter Registration Renewal and Notice of Deficiencies is attached to this Notice of Civil Penalty.
13. The September 15, 2022, Notice of Denial contained the following information:

If you operate an unregistered animal shelter, AWS has the authority to seek legal relief, including but not limited to imposition of a civil penalty of up to five thousand dollars (\$5,000.00) per violation pursuant to N.C.G.S. § 19A-40.
14. The September 15, 2022, Notice of Denial also contained information on how to reapply for an Animal Shelter Certificate of Registration. As of the date of this Notice of Civil Penalty, Drs. Max and Della Fitz-Gerald have failed to apply for an Animal Shelter Certificate of Registration for the shelter.
15. On December 28, 2022, AWS received a complaint alleging that the shelter was continuing to intake dogs and operate as an animal shelter. AWS opened an investigation based on the information contained in the complaint.
16. As part of the complaint investigation, AWS conducted site visit on January 17, 2023. The findings of the site visit included:
 - a. the shelter operator freely admitted that they were continuing to intake animals, operate as an animal shelter and had no plans to discontinue their operation of the shelter;
 - b. a review of the paperwork for animals taken into the shelter showed that several dogs had been taken in since December 1, 2022. The records for these animals were missing documentation required relative the origin of the animals in violation of 02 NCAC 52J .0101(1);
 - c. in violation of 02 NCAC 52J .0201(a), the housing facilities for the dogs in the Gray Building were not maintained in good repair to protect the animals from injury in that:
 - i. there was chewed and damaged metal siding and shutters needing repair;
 - ii. the damaged and rusted doorframe exposed sharp, jagged metal edges;
 - iii. the floor had several cracks and was deeply stained from urine;
 - iv. the damaged wood window frames needed to be replaced with a non-porous material.
 - d. in violation of 02 NCAC 52J .0201(a), the housing facilities for the dogs in the small white building were not maintained in good repair to protect the animals from injury in that the glass windowpane was broken with the sharp, jagged pieces still in the frame and/or on the ground posing a significant risk of harm to the dogs with access to this area;
 - e. in violation of 02 NCAC 52J .0201(a), the housing facilities for the dogs in the Clinic building were not maintained in good repair to protect the animals from injury in that the

- doors leading to the outside yards were rusted and had gaps with sharp edges that pose a risk of injury to the dogs brushing up against them;
- f. in violation of 02 NCAC 52J .0201(b), in the exercise area of the Gray building behind the small white building, electrical wiring was exposed and readily accessible to dogs in the exercise area;
 - g. in violation of 02 NCAC 52J .0201(b), the hallway light fixture cover in the Clinic building was falling off posing a danger to people and animals walking under it;
 - h. in violation of 02 NCAC 52J .0201(d)(1) and (2), in the Gray building, the large container of dog food was not covered by a lid and the dog food and the open box of treats were contaminated with rodent droppings;
 - i. in violation of 02 NCAC 52J .0201(e), fresh, drying and completely dried urine was present along with accumulations of wet and dry hair, dirt, small debris, dog kibble, a large amount of rodent droppings, and feces in varying stages of decay. Small piles of shredded and scattered insulation were present throughout the building and canine-occupied primary enclosures. A small metal bucket in the walkaway was present with exposed feces in various stages of decay;
 - j. in violation of 02 NCAC 52J .0201(i), the drainage system in the Gray building did not allow for adequate drainage as the drainage holes in the aisle way are blocked or partially blocked by bags of Quikrete® and the drainage pipe leading from the building did not empty into a sewer or septic system but drained into a culvert that was present behind residences near the shelter;
 - k. in violation of 02 NCAC 52J .0202(b)(2), in the Gray building and the Clinic building, the air vents and filter had not been cleaned as needed to minimize buildup of debris, dust and biological material;
 - l. in violation of 02 NCAC 52J .0202(b)(3), in the Gray building, the air flow was not adequate to minimize odors;
 - m. in violation of 02 NCAC 52J .0202(d), in the Clinic building, a dog was housed in the employee restroom which had surfaces that were not impervious to moisture and could not be readily sanitized;
 - n. in violation of 02 NCAC 52J .0202(d), in the Gray building, the flooring was not impervious to moisture and could not be readily sanitized as evidenced by the numerous areas of deeply discolored areas from urine staining and the significant number of cracks in the concrete;
 - o. in violation of 02 NCAC 52J .0202(d) in the Clinic building, the rusted metal doors were not impervious to moisture and could not be readily sanitized;
 - p. in violation of 02 NCAC 52J .0203(a)(1) and (2), outside of the Gray building, the patio to which the dogs had access was unsealed, cracked and unsanitary;
 - q. in violation of 02 NCAC 52J .0203(a)(1) and (2), the concrete on the outside of the Clinic building where the dogs had access was unsealed and the concrete walkways were unsealed and cracked. The gravel in the outside area was not maintained at a minimum level of 6 inches as there were bare dirt spots and clumps of grass and weeds growing throughout this area;
 - r. in violation of 02 NCAC 52J .0203(a)(2), excessive amounts of feces were present in the exercise areas of the Gray building, the Clinic building and the small white building;
 - s. in violation of 02 NCAC 52J .0203(b)(4), the exercise area outside of the Gray building had several holes, and patches of bare dirt;

- t. in violation of 02 NCAC 52J .0204(a), in the Clinic building, several animals were housed in rooms in which the surfaces were not impervious to moisture;
- u. in violation of 02 NCAC 52J .0204(a), in the Gray building the floors of the primary enclosures were not impervious to moisture;
- v. in violation of 02 NCAC 52J .0204(b) in the Clinic building, wood and damaged wood was present in the rooms and bathroom used as primary enclosures;
- w. in violation of 02 NCAC 52J .0205(e) in the Gray building, the large open container of food had rodent droppings present in the food. Rodent droppings were also covered the containers of canned food on the feeding cart;
- x. in violation of 02 NCAC 52J .0205(h) in the Gray building, the food receptacles were dirty and unsanitary. Numerous food bowls with dried feces, rodent droppings and old food were present in the aisleway;
- y. in violation of 02 NCAC 52J .0206(a) and (c) in the Gray building, with only a few exceptions, the dogs either had empty water receptacles or receptacles with visibly dirty water present;
- z. in violation of 02 NCAC 52J .0206(a) in the Clinic building, 1 dog did not have access to water as there was no water receptacle in its enclosure and at least 1 other dog had a water receptacle, but no water was present;
- aa. in violation of 02 NCAC 52J .0206(d), in the Gray building all of the water receptacles in use were dirty and unsanitary;
- bb. in violation of 02 NCAC 52J .0207(a), in the Gray building, the majority of the floors of the aisleway and primary enclosures were covered in dried feces and rodent droppings. Animals in this building were standing and lying down in feces and urine. There was a strong urine and fecal odor throughout this building;
- cc. in violation of 02 NCAC 52J .0207(d)(2), in the Gray building, the enclosures and exercise areas were not being properly cleaned twice daily;
- dd. in violation of 02 NCAC 52J .0207(d)(2), in the Gray building, the enclosures are not being sanitized a minimum of every 7 days as evidenced by the large accumulation of feces, urine, and rodent droppings throughout the building and the enclosures;
- ee. in violation of 02 NCAC 52J .0207(d)(4), the common areas of the Gray building, the Clinic building, and the small white building were not kept clean and sanitary;
- ff. in violation of 02 NCAC 52J .0207(d)(5), in the Gray building, the food and water receptacles were not sanitized daily;
- gg. in violation of 02 NCAC 52J .0207(d)(8), in the Gray building, the fans were covered with a thick accumulation of dust, debris and biological matter; and
- hh. in violation of 02 NCAC 52J .0207(f), the shelter has not established or maintained an effective program for the control of mammalian pests as evidence by the overwhelming presence of rodent droppings throughout the Gray building.

17. The May 12, 2022 Notice of Warning and Notice of Violation, the September 15, 2022, Notice of Denial of Animal Shelter Registration Renewal and all the FCI reports referenced herein have been provided to the shelter and are available on AWS's 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 the complaint investigation of the December 28, 2022 complaint and the FCIs conducted on February 22, 2022, March 18, 2022, April 20, 2022, and July 5, 2022, AWS concludes that the shelter has willfully, repeatedly and significantly violated the AWA, NCGS §19A-26, and its associated rules of 02 NCAC 52J .0101(1); .0201(a), (b), (d)(1) and (2), (e) and (i); .0202(b)(2) and (3) and (d); .0203(a)(1) and (2) and (b)(4); .0204(a) and (b); .0205(e) and (h); .0206(a), (c), and (d); and .0207(a), (d)(2), (4), (5), and (8), and (f).

In addition, AWS concludes that:

- a) The shelter has willfully disregarded and violated the AWA and its rules as noted above;
- b) The shelter has failed to provide adequate housing facilities and/or primary enclosures for the purposes of the AWA and the feeding, watering, sanitizing and housing practices at the shelter are not consistent with the intent of the AWA and its associated rules; and
- c) The shelter fails to possess the necessary qualifications to meet the requirements of the AWA for the holding of an animal shelter certificate of registration.

Pursuant to NCGS §§ 19A-30 and 19A-40, these violations can result in the suspension, revocation or refusal to renew a registration for any animal shelter and/or the assessment of a civil penalty of up to \$5,000 per violation.

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.

The shelter is knowingly and willfully violating NCGS § 19A-26 by continuing to operate as an animal shelter without holding a certificate of registration. This intentional violation of the law, and the continued deterioration of the conditions in the shelter, is harmful to the animals in the shelter's care and custody. The unsanitary condition of the shelter creates an increased and unnecessary risk of injury and disease. Additionally, the shelter's blatant disregard for the law significantly frustrates legislative intent and the Animal Welfare Act's stated purpose "to insure that animals confined in pet shops, kennels, animal shelters and auction markets are provided humane care and treatment." NCGS § 19A-21(iv). Finally, the shelter's knowing refusal to follow the law is detrimental to AWS's efforts towards a fair and uniformly enforced system of regulatory compliance and enforcement of the AWA and unfairly disadvantages similarly situated businesses that comply with the law.

Accordingly, For the Love of Dogs Animal Shelter, and Drs. Max and Della Fitz-Gerald individually as owners and operators of the For Love of Dogs Animal Shelter are hereby assessed a civil penalty for the following violation:

\$5000.00 for the violation of NCGS §19A-26 for operation of an animal shelter without a certificate of registration for such animal shelter granted by the Director of AWS.

\$5,000.00 TOTAL AMOUNT ASSESSED

Pursuant to NCGS §§ 19A-30 and 19A-40, violation of the AWA and its associated rules and/or continued operation of an animal shelter without an AWS certificate of registration for the animal shelter result in the assessment of additional civil penalties of up to \$5,000 per violation.

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

February 8, 2023
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.

§ 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 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;

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

(a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.

(b) All light fixtures and electrical outlets in animal areas shall be in compliance with the State Building Code. Electrical appliances, light fixtures, electrical outlets, and electrical cords shall be located or protected in such a way that animals do not have access to them.

(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;

(e) The facility shall provide for the daily removal and disposal of animal and food waste, soiled bedding and debris from the facility in accordance with local ordinances, to assure the facility will be maintained in a clean and sanitary manner.

(i) An adequate drainage system must be provided for the facility.

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

(b) Ventilation of indoor facilities:

- (1) indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times; the facilities shall be provided with fresh air either by means of windows, doors, vents and/or air conditioning and shall be ventilated so as to minimize drafts;

- (2) air vents and/or air filters shall be cleaned and/or changed as often as necessary to minimize buildup of debris, dust and biological material and as often as necessary to prevent inhibition or restriction of air flow; and
- (3) air flow shall be adequate to minimize odors and moisture condensation.
- (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 .0203 OUTDOOR FACILITIES

(a) In outdoor facilities that are subject to the Animal Welfare Act, primary enclosures, common areas and walkways with which an animal comes in contact:

- (1) shall have groundcover constructed of sealed concrete or other surfaces so long as it is impervious to moisture, and/or;
- (2) may use gravel for groundcover so long as it is maintained at a minimum depth of six inches and maintained in a sanitary manner as prescribed in Rule .0207 of this Subchapter.

(b) Exercise areas of outdoor facilities:

- (4) may contain established grass so long as the animal(s) do not have access to bare dirt and the grass covered area(s) must be kept properly cleaned and sanitized as prescribed in Rule .0207 of this Subchapter. In the event of a contagious disease outbreak, the sanitation, management, and use of the grass area shall be addressed in the veterinarian's written protocol required by 02 NCAC 52J .0210(b) and (c).

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 .0204 PRIMARY ENCLOSURES

(a) Primary enclosures and exercise areas shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture excluding the ground cover options of gravel and grass allowed for in Rule .0203 of this Section.

(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.

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 .0205 FEEDING

(e) The food shall be free from contamination, wholesome, palatable, and of sufficient quality and quantity appropriate of the given size, age, and condition of an animal to meet the daily requirements for nutritional value.

(h) Food receptacles shall be durable and shall be kept clean and sanitized.

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

Readopted Eff. October 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.
- (c) Water in receptacles shall be changed daily and whenever visibly soiled.
- (d) Watering receptacles shall be durable and kept clean and sanitized.

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

(d) Sanitation shall be as follows:

- (2) in addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (d)(3) of this Rule if the same animal is housed in the same enclosure for seven or more days;
- (4) common areas, any area accessible to multiple animals and exercise areas not covered by 02 NCAC 52J .0207(d)(3) shall be kept clean and sanitary. These areas are to be properly cleaned a minimum of two times per day. Hard and/or impervious surfaces of these areas shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (d)(3) of this Rule;
- (5) food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant. The disinfectant shall be used consistent with the manufacturer's directions;
- (8) fans, including floor fans, ceiling fans, wall fans, vent fans, etc. shall be kept clean of accumulated debris, dust and biological material.

(f) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

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



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

September 15, 2022

Max and Della Fitz-Gerald, Owners
For the Love of Dogs
5146 Quaker Road
Wilson, North Carolina 27893
and via email:
fitzgeralddella@gmail.com

**NOTICE OF DENIAL OF ANIMAL SHELTER REGISTRATION RENEWAL AND
NOTICE OF DEFICIENCIES**

**Facility: For the Love of Dogs Animal Shelter
Registration Number 232 - expired**

Dear Drs. Fitz-Gerald:

This letter is in response to your application for the renewal of your animal shelter registration with the Animal Welfare Section ("AWS") of the North Carolina Department of Agriculture and Consumer Services ("NCDA&CS") for For the Love of Dogs ("the shelter"). Pursuant to N.C.G.S. § 19A-30(2), (3) and (8), I am issuing this notice to you that your renewal application for the animal shelter registration for For the Love of Dogs Animal Shelter is DENIED effective upon receipt of this notice.

Based upon an impartial investigation and careful review of all available evidence, Dr. Patricia Norris, Director, AWS, Veterinary Division, NCDA&CS determines as follows:

FINDINGS OF FACT

At all times pertinent to this matter, For the Love of Dogs Animal Shelter ("the shelter"), owned and operated by Drs. Max and Della Fitz-Gerald, was an animal shelter, registered or previously registered pursuant to N.C.G.S. §19A-26.

On February 22, 2022, AWS Animal Health Technician Lisa Carlson ("Inspector Carlson") conducted a facility compliance inspection ("FCI") of the shelter. This FCI was marked as "Disapproved" due to the number and severity of the violations of the North Carolina Animal Welfare Act ("AWA") and its associated regulations. The shelter was found to be in violation of

02 NCAC 52J .0201(d) and (e); .0207(a), (b)(3), (4), and (6); and (c); and .0209(6)(c). The FCI also noted that the shelter "Needs Improvement" in compliance with the following rules: 02 NCAC 52J .0201(a) and (b); .0202(b); .0203(a); 0204(a); .0205(b); .0206; .0207(b)(1); and .0208. A copy of the February 22, 2022 FCI is attached hereto and incorporated by reference.

On March 18, 2022, Inspector Carlson conducted a FCI of the shelter. This FCI was marked as "Disapproved" due to the number, severity, and repetitive nature of the violations of the AWA and its associated regulations. The shelter was found to be in violation of 02 NCAC 52J .0201(a), (b), (d), and (e); .0202(b); .0203(a); .0204(a); .0205(b); .0207(a), (b)(1), (3), (4), and (6); and (c); .0208; and .0209(6)(c). A copy of the March 18, 2022 FCI is attached hereto and incorporated by reference.

On April 20, 2022, Inspector Carlson conducted a FCI of the shelter. This FCI was marked as "Disapproved" due to the number, severity, and repetitive nature of the violations of the AWA and its associated regulations. The shelter was found to be in violation of 02 NCAC 52J .0201(a), (d), and (e); .0202(b) and (d); .0203(a); .0204(a); .0205(a) and (b); .0206; .0207(a), (b)(1), (4), and (6); (c) and (d); .0208; and .0209(6)(c). A copy of the April 20, 2022 FCI is attached hereto and incorporated by reference.

On May 12, 2022, AWS issued a Notice of Warning and Notice of Violation to the shelter for violation of 02 NCAC 52J .0201(a), (d), and (e); .0202(b) and (d); .0203(a); .0204(a); .0205(a) and (b); .0206; .0207(a), (b)(2), (3), (4), and (6), (c) and (d); .0208; and .0209(6)(c). This Notice also informed the shelter that AWS may not approve a renewal application for the animal shelter registration should the shelter not comply with the AWA and its associated rules. AWS did not receive a response from the shelter concerning this Notice. A copy of the May 12, 2022 Notice of Warning and Notice of Violation is attached hereto and incorporated by reference.

On July 5, 2022, Inspector Carlson conducted a facility compliance inspection ("FCI") of the shelter. This FCI was marked as "Disapproved" due to the number, severity, and repetitive nature of the violations of the AWA and its associated regulations. The July 5, 2022 FCI noted violations of 02 NCAC 52J .0201(a), (b), (d) and (e); .0202(b) and (d); .0203(a); 0204(a), (b) and (c); .0205(a) and (b); .0206; .0207(a), (b)(2), (4) and (6), (c) and (d); .0208; and .0209(6)(c). A copy of the July 5, 2022 FCI is attached hereto and incorporated by reference.

The May 12, 2022 Notice of Warning and Notice of Violation and all the FCI reports referenced herein have been provided to the shelter and are available on AWS's website at <http://www.ncagr.gov/et/aws/>.

The shelter's certificate of registration expired on June 30, 2022. The shelter has not held a valid animal shelter certificate of registration as required by N.C.G.S. § 19A-26 since that time but has continued to operate as an animal shelter. The shelter did not have an "Approved" FCI for the entire registration period from July 1, 2021 to June 30, 2022.

On August 9, 2022, AWS received an animal shelter registration renewal application for the shelter. At the time of submitting its current renewal application, the shelter had 4 consecutive

"Disapproved" FCIs and had shown no sustained improvement in the repeatedly noted areas of non-compliance with the AWA and its associated rules.

On August 25, 2022, AWS issued a Notice of Intent to Deny License Renewal and Notice of Deficiencies. In that Notice, the shelter was given the opportunity to submit any information that the shelter believed showed the shelter's compliance with all lawful requirements for renewal of the animal shelter registration. The Notice also informed the shelter that if the shelter should choose not to submit any information, AWS will proceed with its final decision with the information available. Additionally, the letter explained that this Notice in no way limited AWS's ability to take further enforcement action against the shelter for new or future violations. Furthermore, it noted that if the violations that resulted in the Notice continue or are ongoing in nature, AWS maintained the right to take additional enforcement actions as authorized by law.

On August 30, 2022, AWS received an email from the shelter in response to the Notice of Intent to Deny License Renewal and Notice of Deficiencies. The email noted the implementation of a few corrective actions and requested an in-person meeting at the shelter. Inspector Carlson and Dr. Patricia Norris, Director, AWS, Veterinary Division, NCDA&CS met with the shelter owners on September 7, 2022 at the shelter.

Thereafter, AWS thoroughly reviewed and considered all information submitted by the shelter. The review of the information provided by the shelter in the August 30, 2022 response and the September 7, 2022 meeting at the animal shelter do not alter or mitigate the violations detailed in the August 25, 2022 Notice of Intent to Deny Animal Shelter Registration Renewal and Notice of Deficiencies. At best, the responses from the shelter allege an intent to hopefully correct existing and on-going violations at some point in the future and provide no evidence that the shelter currently meets the requirements for possession of a certificate of registration.

The shelter remains in violation significant violation of 02 NCAC 52J .0201(a), (b), (d), and (e); .0202(b) and (d); .0203(a); .0204(a), (b) and (c); .0205(a) and (b); .0206; .0207(a), (b)(2), (4), and (6), (c) and (d); .0208; and .0209(6)(c) as set forth in the February 22, 2022, March 18, 2022, April 20, 2022, and July 5, 2022 FCI reports.

CONCLUSIONS

Based on the findings of the FCIs conducted on February 22, 2022, March 18, 2022, April 20, 2022, and July 5, 2022, AWS concludes that the shelter has willfully, repeatedly and significantly violated the AWA and its associated rules of 02 NCAC 52J .0201(a), (b), (d), and (e); .0202(b) and (d); .0203(a); .0204(a), (b) and (c); .0205(a) and (b); .0206; .0207(a), (b)(2), (4), and (6), (c) and (d); .0208; and .0209(6)(c).

In addition, AWS concludes that:

- a) The shelter has willfully disregarded and violated the AWA and its rules as noted above;
- b) The shelter has failed to provide adequate housing facilities and/or primary enclosures for the purposes of the AWA and the feeding, watering, sanitizing and

- housing practices at the shelter are not consistent with the intent of the AWA and its associated rules; and
- c) The shelter fails to possess the necessary qualifications to meet the requirements of the AWA for the holding of an animal shelter certificate of registration.

Pursuant to N.C.G.S. §§ 19A-30 and 19A-40, these violations can result in the suspension, revocation or refusal to renew a registration for any animal shelter and/or the assessment of a civil penalty of up to \$5,000 per violation.

FINAL DECISION: DENIAL OF RENEWAL APPLICATION FOR AN ANIMAL SHELTER REGISTRATION

Accordingly, pursuant to N.C.G.S. § 19A-30(2), (3), and (8), and due to the severity and number of violations of the AWA and its associated regulations noted above, I am hereby denying the renewal application for the animal shelter registration for For the Love of Dogs.

Pursuant to N.C.G.S. § 19A-26, no person shall operate an animal shelter unless a certificate of registration to operate such an establishment has been granted by the AWS.

If you operate an unregistered animal shelter, AWS has the authority to seek legal relief, including but not limited to imposition of a civil penalty of up to five thousand dollars (\$5,000.00) per violation pursuant to N.C.G.S. § 19A-40.

RENEWAL OF THE ANIMAL SHELTER REGISTRATION

Should you come into compliance with the AWA and its associated rules and wish to obtain an animal shelter registration at that time, you may reapply for the registration by submitting another renewal application. You must also request a FCI from AWS once the shelter is in full compliance with the AWA and all its associated rules. Once the shelter is in full compliance with the AWA and its associated rules and receives an "Approved" rating on the FCI then the animal shelter certificate of registration may be issued.

The ability to reapply for an animal shelter certificate of registration does not authorize you to continue to operate as an animal shelter during any period in which you are attempting to come into compliance with the AWA and its associated rules. Therefore, until you obtain a valid animal shelter certificate of registration from AWS, any continued operation as an animal shelter will be treated as a violation of N.C.G.S. § 19A-26.

APPEAL

You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, within five (5) days of your receipt of this denial. 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). 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 919-431-3000.

If you file a contested case petition, 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

If you have any questions, you may call the AWS office at (919) 707-3280.

Your attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director, Animal Welfare Section
Veterinary Division, NCDA&CS

Enclosure

cc:

Michael Martin, DVM, State Veterinarian,
Christiana L. Waggett, Assistant Commissioner, NCDA&CS
Jonathan Lanier, General Counsel, NCDA&CS
Christopher McLennan, Special Deputy Attorney General

Appendix

RELEVANT 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.

§ 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 .0201 GENERAL

(a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.

(b) All light fixtures and electrical outlets in animal areas shall be in compliance with the State Building Code.

(d) Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin and insects. All open bags of food shall be stored in airtight containers with lids. Refrigeration shall be provided for supplies of perishable food.

(e) Provisions shall be made for the daily removal and disposal of animal and food waste, bedding and debris from the housing facility in accordance with local ordinances, to assure facility will be maintained in a clean and sanitary manner.

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

02 NCAC 52J .0202 INDOOR FACILITIES

(b) Indoor housing facilities for dogs and cats shall be adequately ventilated to provide for the health and comfort of the animals at all times. The facilities shall be provided with fresh air either by means of windows, doors, vents or air conditioning and shall be ventilated so as to minimize drafts. Air flow shall be adequate to minimize odors and moisture condensation.

(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; Eff. April 1, 1984; Amended Eff. January 1, 2005.

02 NCAC 52J .0203 OUTDOOR FACILITIES

(a) In outdoor facilities that are subject to the Animal Welfare Act, primary enclosures and walkways with which an animal comes in contact shall be constructed of sealed concrete or other surfaces impervious to moisture. Gravel may be used if maintained at a minimum depth of six inches and kept in a sanitary manner.

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

02 NCAC 52J .0204 PRIMARY ENCLOSURES

(a) Primary enclosures shall be constructed so as to prevent contamination from waste and wastewater from animals in other enclosures. All surfaces with which an animal comes in contact shall be impervious to moisture. For primary enclosures placed into service on or after January 1, 2005, no wood shall be within the animal's reach. For primary enclosures in use in a licensed or registered facility prior to January 1, 2005, any damaged wood must be replaced in a manner that does not permit contact with wood by the animal.

(b) Primary enclosures for dogs and cats shall be structurally sound and maintained in good repair and in a manner to prevent injury to animals and keep other animals out. Primary enclosures shall be constructed so as to provide space to allow each dog or cat to walk, turn about freely, and to easily stand, sit, or lie in a natural position. The height of a primary enclosure other than a cage shall be no less than five feet. All enclosures shall be constructed to prevent the escape of animals.

(c) Each primary enclosure shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure at the same time. All resting surfaces must be of a non-porous or easily sanitized material, such as a towel, or a disposable material such as newspaper. The resting surface or surfaces shall be elevated in primary enclosures housing two or more cats.

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

02 NCAC 52J .0205 FEEDING

(a) Dogs and cats shall be fed at least once each 24-hour period except as otherwise might be required to provide adequate veterinary care. Food shall be commercially prepared food which complies with laws applicable to animal feed or the food shall be provided by the owner. The food shall be free from contamination, wholesome, palatable, and of adequate quality and quantity appropriate for the given size, age, and condition of an animal to meet the daily requirements for nutritional value. Puppies and kittens less than six months of age shall be fed at least twice in each 24-hour period. An eight-hour interval between feedings is required if only two feedings are offered in a 24-hour period.

(b) Food receptacles shall be accessible to all dogs or cats and shall be located so as to minimize contamination by waste. For every adult animal, there must be at least one food receptacle offered. Food receptacles shall be durable and shall be kept clean and sanitized. Damaged receptacles shall be replaced. Disposable food receptacles may be used but must be discarded after each feeding.

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

02 NCAC 52J .0206 WATERING

Animals shall have continuous access to fresh water, except as might otherwise be required to provide adequate veterinary care. Watering receptacles shall be durable and kept clean and sanitized. Damaged receptacles shall be replaced.

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

02 NCAC 52J .0207 SANITATION

(a) Waste shall be removed from primary enclosures and exercise 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 must 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. When a hosing or flushing method is used for cleaning an enclosure, dogs or cats contained therein shall be removed during the cleaning process, and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other wastes.

(b) Sanitation shall be as follows:

(2) In addition to primary enclosures being properly cleaned a minimum of two times per day, enclosures and accessories shall be sanitized a minimum of once every seven days in the manner provided in Subparagraph (b)(3) of this Rule if the same animal is housed in the same enclosure more than seven days.

(4) Food and water receptacles shall be sanitized daily with hot water, detergent, and disinfectant.

(6) Any area accessible to multiple animals shall be kept clean and sanitary.

(c) 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.

(d) An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

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

02 NCAC 52J .0208 EMPLOYEES

A sufficient number of employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this Rule. Such practices shall be under the supervision of an animal caretaker who has a background in animal husbandry or care.

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

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:
 - (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.