



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

June 18, 2025

Lourdes Felmet
Owner
The Barkington
10153 Morecample Blvd.
Unit 4
Leland, North Carolina 28451
and via email
Lmpm1365@gmail.com

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C. ADMINISTRATIVE CODE ("NCAC") CHAPTER 52J SECTIONS .0102 (4), (5) and (6); .0203(e); and .0206(a)

AWS-CP-2025-10

Facility: The Barkington
License Number: 20564

Dear Ms. Felmet:

Pursuant to NCGS § 19A-40, I am issuing this notice that you as owner and operator of The Barkington ("the kennel") are hereby assessed a civil penalty of \$3,000.00 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 blue ink, appearing to read "Patricia Norris DVM MS".

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
Lindsey Spain, Special Deputy Attorney General

for this reason. Therefore, the kennel should have been vigilant in monitoring James May's condition; and

- e. In violation of 02 NCAC 52J .0206(a), the kennel failed to provide James May with continuous access to water on May 16, 2025. Statements made by the kennel staff during the May 28, 2025 site visit indicate that no water or water receptacle was present in the outside exercise area when they found James May on May 16, 2025.
4. A review of the veterinary medical record for James May showed that he was admitted to an emergency veterinary hospital with signs consistent with heatstroke. He developed complications due to the severity of the heatstroke and was euthanized.
5. A review of AWS records showed no record of the kennel notifying AWS of the death of James May.

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 AWS investigation, AWS finds that the kennel violated the following provisions:

02 NCAC 52J .0102(4) for failure to create a record of the incident concerning James May at the time of its occurrence as noted on May 28, 2025;

02 NCAC 52J .0102(5) for failure to maintain an incident file for animals sustaining injury or illness requiring veterinary care, animal death and/or an animal escape as noted on May 28, 2025;

02 NCAC 52J .0102(6) for failure to notify AWS of the death of an animal within 48 hours of its occurrence as noted on May 28, 2025;

02 NCAC 52J .0203(e) for failure to provide adequate protection from inclement weather and the Sun to James May on May 16, 2025 resulting in his death from heatstroke; and

02 NCAC 52J .0206(a) for failure to provide James May with continuous access to water on May 16, 2025 contributing to his death from heatstroke.

Pursuant to NCGS §§ 19A-30 and 19A-40, these violations can result in the suspension, revocation or refusal to renew a license application for a boarding kennel 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 violation listed above.

Accordingly, Lourdes Felmet, as the owner and operator of The Barkington, is hereby assessed a civil penalty for the following violations:

\$400.00 for violation of 02 NCAC 52J .0102(4) for failure to create a record of the incident concerning James May at the time of its occurrence as noted on May 28, 2025;

\$400.00 for violation of 02 NCAC 52J .0102(5) for failure to maintain an incident file for animals sustaining injury or illness requiring veterinary care, animal death and/or an animal escape as noted on May 28, 2025;

\$600.00 for violation of 02 NCAC 52J .0102(6) for failure to notify AWS of the death of an animal within 48 hours of its occurrence as noted on May 28, 2025;

\$1,000.00 for violation 02 NCAC 52J .0203(e) for failure to provide adequate protection from inclement weather and the Sun to James May on May 16, 2025 resulting in his death from heatstroke; and

\$600.00 for violation of 02 NCAC 52J .0206(a) for failure to provide James May with continuous access to water on May 16, 2025 contributing to his death from heatstroke.

\$3,000.00 TOTAL AMOUNT ASSESSED

Continued or future violation of the statutes or regulations referenced in this letter 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 boarding kennel license pursuant to NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

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

June 18, 2025

Date



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

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

§ 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 .0102 RECORDS; BOARDING KENNELS

Operators of boarding kennels shall maintain records of all dogs and cats showing the following:

- (4) all records shall be created and/or updated at the time of the occurrence such as intake, medication or treatment administration and/or release. The record shall be accurate; creation of a misleading record or deliberate or non-incident falsification of a record including medication administration during or after an investigation or inspection shall be considered a violation of this regulation;
- (5) an incident file shall be kept within each facility for animals sustaining injury or illness requiring veterinary care; animal death; and/or any animal escape. Each report shall include date of incident, pet's name, breed or breed type/species, age, owner's name and contact information, description of incident and course of action; and
- (6) in the event of either an animal death or escape, the licensee shall notify the Animal Welfare Section within 48 hours.

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

02 NCAC 52J .0203 OUTDOOR FACILITIES

(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 .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.