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Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

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November 6, 2024

Debra Hardin
President and Registered Agent
Clifford's Army Rescue Extravaganza, Inc.
P. O. Box 370
Earl, NC 28038
and via email
cliffordsarmy@gmail.com

NOTICE of WARNING and NOTICE of VIOLATION

Re: Violations of NCGS § 19A-26 and Title 02 N.C. Administrative Code (“NCAC”) Chapter 52J, Sections .0201(d)(1) and (4), (g) and (q); .0202(b)(3); .0203(a)(1); .0204(c); .0206(e); .0207(a), (d)(4) and (f); and .0209(8).

AWS-WL-2024-8

Animal Shelter: Clifford's Army Rescue Extravaganza, Inc. Animal Shelter
Unregistered

Dear Ms. Hardin:

On February 20, 2024, the Animal Welfare Section (“AWS”) of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services (“NCDA&CS”) received a complaint concerning the operation of an unregistered animal shelter at 516 Bethlehem Road, Kings Mountain, NC. AWS initiated an investigation based on the information contained in the complaint. 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.

On February 26, 2024, AWS Animal Health Technicians James and Shore (“Inspectors James and Shore”) conducted a site visit at the address noted above. This site visit revealed that Clifford's Army Rescue Extravaganza, Inc. (“CARE”) was operating an unregistered animal shelter (“shelter”) housing 32 dogs in violation of NCGS § 19A-26. During this site visit, the operators of the unregistered shelter were directed by Inspectors James and Shore to not bring any additional animals into the shelter until the shelter had obtained an animal shelter registration from AWS.

A follow-up site visit on March 25, 2024 found that 26 dogs were housed at the unregistered shelter. Another follow-up visit on May 16, 2024 found that 22 dogs were housed at the unregistered shelter.

On September 25, 2024, CARE submitted an application for registration of an animal shelter at the 516 Bethlehem Road , Kings Mount, NC site. This application stated that the maximum number of animals to be housed at the shelter would not exceed 40 dogs. Follow-up communications between Inspector James and Ms. Hardin clarified that while Ms. Freeman owns the property, CARE was the owner/operator of the CARE animal shelter with Ms. Hardin being the President of CARE. The NC Secretary of State Office listed Ms. Hardin as the Registered Agent for CARE.

On October 15, 2024, Inspectors James and Shore conducted a courtesy Facility Compliance Inspection (“FCI”), as CARE had indicated that they were ready for the licensing inspection. As this was a courtesy FCI, the date and time were prearranged with the shelter owner. The findings of this courtesy FCI included:

1. in willful violation of NCGS § 19A-26, the shelter had increased its operation as an unregistered animal shelter by increasing the number of housed animals from 22 on May 16, 2024 to 45 animals;
2. in violation of 02 NCAC 52J .0201(d)(1), the bedding was not stored in cabinets or sealed containers to adequately protect the bedding against infestation or contamination;
3. in violation of 02 NCAC 52J .0201(d)(4), the clean bedding and laundry were not stored in cabinets or sealed containers separate from the soiled laundry and materials;
4. in violation of 02 NCAC 52J .0201(g), the shelter did not have the ability to confirm the ambient temperature with a functional room thermometer in each area of indoor enclosures;
5. in violation of 02 NCAC 52J .0201(q), the shelter was not equipped with an operational smoke alarm and carbon monoxide alarm or a means of fire suppression;
6. in violation of 02 NCAC 52J .0202(b)(3), air flow in the indoor facility was not adequate to minimize odors and moisture condensation;
7. in violation of 02 NCAC 52J .0203(a)(1), the cracks in the concrete had not been filled in and sealed and the concrete surfaces in the outdoor enclosures and walkways were not sealed as to be impervious to moisture;
8. in violation of 02 NCAC 52J .0204(c), some of the primary enclosures were not maintained in good repair or in a manner to prevent injury to animals;
9. in violation of 02 NCAC 52J .0206(e), damaged water receptacles were not replaced;
10. in violation of 02 NCAC 52J .0207(a), waste was not removed from primary enclosures and exercise areas to prevent contamination of the dogs to reduce disease hazards and odors and enclosures and exercise areas were not properly cleaned a minimum of two times per day;
11. in violation of 02 NCAC 52J .0207(d)(4), the common areas and areas accessible to multiple animals and exercise areas were not kept clean and sanitary and were not properly cleaned a minimum of two times per day;
12. in violation of 02 NCAC 52J .0207(f), an effective program for the control of insects had not been established or maintained by the shelter;
13. in violation of 02 NCAC 52J .0209(8), the shelter confined animals in enclosures prior to the enclosures being inspected by AWS and before the enclosures were in compliance with the AWA rules. The shelter increased its population of housed animals from 22 on May 16, 2024 to 45 dogs using uninspected/unapproved enclosures in which to house these additional dogs; and
14. the FCI was marked as “Disapproved” due to the number and severity of violations and the willful violation of NCGS § 19A-26.

Therefore, AWS finds that this unregistered shelter is in violation of NCGS § 19A-26 and 02 NCAC 52J Sections .0201(d)(1) and (4), (g) and (q); .0202(b)(3); .0203(a)(1); .0204(c); .0206(e); .0207(a), (d)(4) and (f); and .0209(8).

This Warning Letter serves as written notice indicating in which respects the shelter violated the N.C. Animal Welfare Act (“AWA”) and the rules issued pursuant thereto. The shelter is directed to immediately comply with the AWA and its associated rules.

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 application 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.

Your immediate compliance with the N.C. Animal Welfare Act is required.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patricia Norris DVM MS".

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

cc: Dr. Michael Martin, State Veterinarian
Christina L. Waggett, Assistant Commissioner, NCDA&CS
Jonathan Lanier, General Counsel, NCDA&CS
Christopher R. McLennan, Assistant Attorney General

Appendix

REFERENCED STATUTES 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. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 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

(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;
- (4) clean bedding and laundry shall be: stored in cabinets and/or sealed containers; stored separately from soiled laundry and materials; and stored separately from general housing areas for animals; and

(g) Each facility shall have the ability to confirm ambient temperature. A functional room thermometer shall be present in each separate area of indoor enclosures, common areas and exercise areas.

(q) All facilities shall be equipped with an operational smoke alarm and carbon monoxide alarm and shall have a means of fire suppression, such as functional fire extinguishers or a sprinkler system on the premises.

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:

- (3) air flow shall be adequate to minimize odors and moisture condensation.

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;

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

(c) Primary enclosures and exercise areas 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.

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

(e) Damaged receptacles shall be replaced.

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:

- (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;

(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.

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.