



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

July 27, 2023

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

NOTICE of CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of NCGS §19A-26 and TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTIONS .0101(1), (4), (5), and (6); .0201(a), (b), (d)(1), (2), and (4), (e), (g), (i), (q), and (r); .0202(b)(1), (2), and (3), (c), (d), and (e)(1); .0203(a)(1), (b)(2) and (4), (f), and (h); .0204(a), (b), (c), (e), and (h), .0206(a) and (c); .0207(a), (d)(2), (3), (4), and (8), (e), and (f); .0209(6), (7), and (7)(a) and (b); and .0210(d).

AWS-CP-2023-10

**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 \$11,000.00 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 VIOLATIONS of NC GENERAL
) STATUTE (“NCGS”) §19A-26 and TITLE
) 02 NC ADMINISTRATIVE CODE
) (“NCAC”) CHAPTER 52J SECTIONS
) .0101(1), (4), (5), and (6); .0201(a), (b),
) (d)(1); (2), and (4), (e), (g), (i), (q) and (r);
) .0202(b)(1), (2), (3), (c), (e)(1); .0203(a)(1),
) (b)(2) and (4), (f), and (h); .0204(a), (b), (c),
) (e) and (h); .0206(a) and (c); .0207(a), (d)(2),
) (3), (4) and (8); .0209(6), (7), (7)(a) and (b);
) and .0210(d)

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, previously registered pursuant to NCGS §19A-26.
2. 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” Facility Compliance Inspection (“FCI”) for the entire registration period from July 1, 2021, to June 30, 2022.
3. 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 hereto and incorporated by reference.
4. 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.

5. On February 8, 2023, AWS issued a Notice of Civil Penalty for violation of NCGS § 19A-26 as the shelter continued to operate without a valid certificate of registration. The Notice of Civil Penalty details the long history and severity of the non-compliance by the shelter of the AWA and its associated rules. The appeal period for the February 8, 2023 Civil Penalty has passed and the shelter did not file an appeal. The February 8, 2023 Notice of Civil Penalty is attached hereto and incorporated by reference.
6. On June 12, 2023, AWS received an additional animal shelter registration application from the shelter.
7. On June 27, 2023, the AWS Director and AWS Outreach Coordinator conducted an FCI of the shelter for the purpose of ascertaining whether the shelter was in compliance with the AWA and its associated rules so that an animal shelter registration could be issued. Due to the number, severity and repetitive nature of the violations documented during the June 27, 2023 FCI as well as the failure of the shelter to implement any corrective actions for the previously cited violations, the FCI was marked as "Disapproved." The June 27, 2023 FCI found the shelter to be in violation of the following NCAC rules: 02 NCAC 52J .0101(1), (4), (5), and (6); .0201(a), (b), (d)(1),(2), and (4), (e), (g), (i), (q), and (r); .0202(b)(1), (2), and (3), (c), (d), and (e)(1); .0203(a)(1), (b)(2) and (4), (f) and (h); .0204(a), (b), (c), (e), and (h), .0206(a), (c), .0207(a), (d)(2), (3), (4), and (8), (e) and (f); .0209(6), (7), and (7)(a) and (b); and .0210(d). In addition, the shelter was continuing to operate in violation of NCGS § 19A-26 as evidenced by the intake of at least 14 animals since the beginning of 2023 with the most recent intake occurring on June 14, 2023. A copy of the June 27, 2023 FCI, which sets forth the circumstances giving rise to these cited violations, has been made available to the owner of the shelter and is attached hereto and incorporated by reference.
8. The September 15, 2022 Notice of Denial of Animal Shelter Registration Renewal, the February 8, 2023, Notice of Civil Penalty, 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 June 27, 2023 FCI, 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), (4), (5), and (6); .0201(a), (b), (d)(1),(2), and (4), (e), (g), (i), (q), and (r); .0202(b)(1), (2), and (3), (c), (d), and (e)(1); .0203(a)(1), (b)(2) and (4), (f) and (h); .0204(a), (b), (c), (e), and (h), .0206(a), (c), .0207(a), (d)(2), (3) (4), and (8), (e) and (f); .0209(6), (7), and (7)(a) and (b); and .0210(d). In addition, the shelter was continuing to operate in violation of NCGS § 19A-26.

AWS concludes that the shelter violated the following provisions on June 27, 2023:

NCGS § 19A-26 for continuing to operate an animal shelter without obtaining a certificate of registration from the Director of AWS. This is the second violation of NCGS § 19A-26 by the shelter

02 NCAC 52J .0101(1) for failure to maintain records showing the origins of the animals

02 NCAC 52J .0101(4) for failure to maintain records of the disposition of animals

02 NCAC 52J .0101(5) for failure to maintain records of veterinary care as evidenced by the lack of records for the administration of eye medications to the dog with the chronic eye condition housed in the little white building

02 NCAC 52J .0101(6) for failure to create or update records within 48 hours of occurrence of procedures and failure to maintain accurate records

02 NCAC 52J .0201(a) for failure to maintain the housing facilities in good repair as evidenced by the door frames of the gray building remaining unrepaired

02 NCAC 52J .0201(b) for failure to protect the electrical box on the outside of the little white building from access by the dogs

02 NCAC 52J .0201(d)(1) for failure to store food in cabinets or sealed containers to adequately protect such supplies against infestation or contamination by vermin and insects

02 NCAC 52J .0201(d)(2) for failure to store all open bags of food and edible treats in airtight containers with lids

02 NCAC 52J .0201(d)(4) for failure to store clean bedding and laundry in cabinets or sealed containers

02 NCAC 52J .0201(e) for failure to provide for the daily removal and disposal of animal and food waste such that the facility is not maintained in a clean and sanitary manner

02 NCAC 52J .0201(g) for failure to have a functional room thermometer in the Gray building

02 NCAC 52J .0201(i) for failure to provide an adequate drainage system for the Gray building

02 NCAC 52J .0201(q) for failure to equip the shelter with an operational carbon monoxide alarm

02 NCAC 52J .0201(r) for failure to develop and maintain a plan of action for the continuity of care or evacuation of animals in the event of a disaster

02 NCAC 52J .0202(b)(1) for failure to provide adequate ventilation to provide for the health and comfort of the animals at all times in the Gray building

02 NCAC 52J .0202(b)(2) for failure to clean the air vents of the Gray building and the Clinic building as often as necessary to minimize buildup of debris, dust and biological material or as often as necessary to prevent inhibition or restriction of air flow in the Gray building

02 NCAC 52J .0202(b)(3) for failure to provide air flow in the Gray building adequate to minimize odors and moisture condensation

02 NCAC 52J .0202(c) for failure to provide sufficient illumination to permit routine inspections and cleaning of the Gray building

02 NCAC 52J .0202(d) for failure to maintain the surfaces in the Gray and Clinic buildings with which animals come in contact so that they are impervious to moisture and can be readily sanitized

02 NCAC 52J .0202(e)(1) for failure to provide a suitable method of drainage in the Gray building

02 NCAC 52J .0203(a)(1) for failure to provide sealed concrete on the porch area of the Gray building which is part of the exercise area for those kennels

02 NCAC 52J .0203(b)(2) for failure to maintain a minimum depth of six inches of gravel in the exercise areas of the Clinic building

02 NCAC 52J .0203(b)(4) for failure to maintain the outdoor exercise areas of the Gray building and the Clinic building so that the animals do not have access to bare dirt and failure to keep the outdoor exercise area of the Gray building properly cleaned and sanitized

02 NCAC 52J .0203(f) for failure to maintain outdoor common areas of the Gray building and the Clinic building in good repair and failure to properly clean and sanitize these areas around the Gray building

02 NCAC 52J .0203(h) for failure to provide a suitable drainage system to the areas around the Gray building, the Clinic building and the little white building so that the dogs do not have access to standing water

02 NCAC 52J .0204(a) for failure to construct primary enclosures in the Gray building to prevent contamination from waste and wastewater from animals in other enclosures

02 NCAC 52J .0204(b) for allowing wood to be within the animal's reach within the Gray building

02 NCAC 52J .0204(c) for failing to maintain the exercise yards around the little white building in a manner to prevent injury to animals

02 NCAC 52J .0204(e) for failing to maintain the outdoor exercise areas so that the dogs can run and express natural play behaviors without risk of injury as evidenced by the numerous deep holes, many of which are hidden by the tall grass

02 NCAC 52J .0204(h) for failure to provide solid resting surfaces adequate to comfortably hold the occupants of the primary enclosures of the Gray building and the Clinic building as many of the current resting surfaces are in disrepair and cannot hold the occupants of the enclosure

02 NCAC 52J .0206(a) for failure to provide the dogs with continuous access to fresh potable water in the Gray building and the outdoor exercise area of the Gray building

02 NCAC 52J .0206(c) for failure to change the water in the receptacle daily and whenever visibly soiled in the Gray building

02 NCAC 52J .0207(a) for failure to remove waste from primary enclosures, exercise areas and common areas to prevent contamination of the dog contained therein and failure to properly clean the enclosures and exercise area a minimum of two times per day in the Gray building

02 NCAC 52J .0207(d)(2) for failure to sanitize the enclosures and accessories a minimum of once every seven days in the Gray building and the Clinic building

02 NCAC 52J .0207(d)(3) for failure to sanitize the enclosures by removing the visible organic matter, precleaning all soiled surfaces with a detergent or degreaser, application of an animal-safe disinfectant, and then rinsing and drying of all surfaces before the animal is returned to the enclosure

02 NCAC 52J .0207(d)(4) for failure to keep areas accessible to multiple animals and exercise areas clean and sanitary

02 NCAC 52J .0207(d)(8) for failure to keep fans clean of accumulated debris, dust and biological material in the Gray building and the Clinic building

02 NCAC 52J .0207(e) for failure to keep the premises clean and in good repair

02 NCAC 52J .0207(f) for failure to maintain an effective program for the control of insects and mammalian pests as evidenced by the large number of cobwebs, flies and rodent droppings in the Gray building

02 NCAC 52J .0209(6) for failure to designate an isolation area

02 NCAC 52J .0209(7) for failure to provide human interaction other than enclosure cleaning, same species social interaction, opportunity for play and exercise and environmental enrichment daily for animals housed at the shelter for more than 30 days

02 NCAC 52J .0209(7)(a) for failure to document the provision of daily social interactions and enrichment in the animals' records

02 NCAC 52J .0209(7)(b) for failure to have veterinary approval of exemptions from long-term care provisions for the animals that are not provided with this care

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner for the dog with the chronic eye condition in the little white building

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 violations noted on June 27, 2023:

\$5,000.00 for the second 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

\$100.00 for violation of 02 NCAC 52J .0101(1) for failure to maintain records showing the origin of the animal

\$100.00 for violation of 02 NCAC 52J .0101(4) for failure to maintain records of the disposition of animals

\$100.00 for violation of 02 NCAC 52J .0101(5) for failure to maintain records of veterinary care as evidenced by the lack of records for the administration of eye medications to the dog with the chronic eye condition housed in the little white building

\$100.00 for violation of 02 NCAC 52J .0101(6) for failure to create or update records within 48 hours of occurrence of procedures and failure to maintain accurate records

\$100.00 for violation of 02 NCAC 52J .0201(a) for failure to maintain the housing facilities in good repair as evidenced by the door frames of the gray building remaining unrepaired

\$100.00 for violation of 02 NCAC 52J .0201(b) for failure to protect the electrical box on the outside of the little white building from access by the dogs

\$100.00 for violation of 02 NCAC 52J .0201(d)(1) for failure to store food in cabinets or sealed containers to adequately protect such supplies against infestation or contamination by vermin and insects

\$100.00 for violation of 02 NCAC 52J .0201(d)(2) for failure to store all open bags of food and edible treats in airtight containers with lids

\$100.00 for violation of 02 NCAC 52J .0201(d)(4) for failure to store clean bedding and laundry in cabinets or sealed containers

\$200.00 for violation of 02 NCAC 52J .0201(e) for failure to provide for the daily removal and disposal of animal and food waste such that the facility is not maintained in a clean and sanitary manner

\$100.00 for violation of 02 NCAC 52J .0201(g) for failure to have a functional room thermometer in the Gray building

\$100.00 for violation of 02 NCAC 52J .0201(i) for failure to provide an adequate drainage system for the Gray building

\$200.00 for violation of 02 NCAC 52J .0201(q) for failure to equip the shelter with an operational carbon monoxide alarm

\$200.00 for violation of 02 NCAC 52J .0201(r) for failure to develop and maintain a plan of action for the continuity of care or evacuation of animals in the event of a disaster

\$200.00 for violation of 02 NCAC 52J .0202(b)(1) for failure to provide adequate ventilation to provide for the health and comfort of the animals at all times in the Gray building

\$200.00 for violation of 02 NCAC 52J .0202(b)(2) for failure to clean the air vents of the Gray building and the Clinic building as often as necessary to minimize buildup of debris, dust and biological material or as often as necessary to prevent inhibition or restriction of air flow in the Gray building

\$200.00 for violation of 02 NCAC 52J .0202(b)(3) for failure to provide air flow in the Gray building adequate to minimize odors and moisture condensation

\$100.00 for violation of 02 NCAC 52J .0202(c) for failure to provide sufficient illumination to permit routine inspections and cleaning of the Gray building

\$100.00 for violation of 02 NCAC 52J .0202(d) for failure to maintain the surfaces in the Gray and Clinic buildings with which animals come in contact so that they are impervious to moisture and can be readily sanitized

\$100.00 for violation of 02 NCAC 52J .0202(e)(1) for failure to provide a suitable method of drainage in the Gray building

\$100.00 for violation of 02 NCAC 52J .0203(a)(1) for failure to provide sealed concrete on the porch area of the Gray building which is part of the exercise area for those kennels

\$100.00 for violation of 02 NCAC 52J .0203(b)(2) for failure to maintain a minimum depth of six inches of gravel in the exercise areas of the Clinic building

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\$200.00 for violation of 02 NCAC 52J .0203(f) for failure to maintain outdoor common areas of the Gray building and the Clinic building in good repair and failure to properly clean and sanitize these areas around the Gray building

\$100.00 for violation of 02 NCAC 52J .0203(h) for failure to provide a suitable drainage system to the areas around the Gray building, the Clinic building and the little white building so that the dogs do not have access to standing water

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\$100.00 for violation of 02 NCAC 52J .0204(b) for allowing wood to be within the animal's reach within the Gray building

\$100.00 for violation of 02 NCAC 52J .0204(c) for failing to maintain the exercise yards around the little white building in a manner to prevent injury to animals

\$100.00 for violation of 02 NCAC 52J .0204(e) for failing to maintain the outdoor exercise areas so that the dogs can run and express natural play behaviors without risk of injury as evidenced by the numerous deep holes, many of which are hidden by the tall grass

\$100.00 for violation of 02 NCAC 52J .0204(h) for failure to provide solid resting surfaces adequate to comfortably hold the occupants of the primary enclosures of the Gray building and the Clinic building as many of the current resting surfaces are in disrepair and cannot hold the occupants of the enclosure

\$200.00 for violation of 02 NCAC 52J .0206(a) for failure to provide the dogs with continuous access to fresh potable water in the Gray building and the outdoor exercise area of the Gray building

\$100.00 for violation of 02 NCAC 52J .0206(c) for failure to change the water in the receptacle daily and whenever visibly soiled in the Gray building

\$200.00 for violation of 02 NCAC 52J .0207(a) for failure to remove waste from primary enclosures, exercise areas and common areas to prevent contamination of the dog contained therein and failure to properly clean the enclosures and exercise area a minimum of two times per day in the Gray building

\$200.00 for violation of 02 NCAC 52J .0207(d)(2) for failure to sanitize the enclosures and accessories a minimum of once every seven days in the Gray building and the Clinic building

\$200.00 for violation of 02 NCAC 52J .0207(d)(3) for failure to sanitize the enclosures by removing the visible organic matter, precleaning all soiled surfaces with a detergent or degreaser, application of an animal-safe disinfectant, and then rinsing and drying of all surfaces before the animal is returned to the enclosure

\$100.00 for violation of 02 NCAC 52J .0207(d)(4) for failure to keep areas accessible to multiple animals and exercise areas clean and sanitary

\$200.00 for violation of 02 NCAC 52J .0207(d)(8) for failure to keep fans clean of accumulated debris, dust and biological material in the Gray building and the Clinic building

\$200.00 for violation of 02 NCAC 52J .0207(e) for failure to keep the premises clean and in good repair

\$200.00 for violation of 02 NCAC 52J .0207(f) for failure to maintain an effective program for the control of insects and mammalian pests as evidenced by the large number of cobwebs, flies and rodent droppings in the Gray building

\$200.00 for violation of 02 NCAC 52J .0209(6) for failure to designate an isolation area

\$100.00 for violation of 02 NCAC 52J .0209(7) for failure to provide human interaction other than enclosure cleaning, same species social interaction, opportunity for play and exercise and environmental enrichment daily for animals housed at the shelter for more than 30 days

\$100.00 for violation of 02 NCAC 52J .0209(7)(a) for failure to document the provision of daily social interactions and enrichment in the animals' records

\$100.00 for violation of 02 NCAC 52J .0209(7)(b) for failure to have veterinary approval of exemptions from long-term care provisions for the animals that are not provided with this care

\$200.00 for violation of 02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner for the dog with the chronic eye condition in the little white building

\$11,000.00 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 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)

July 27, 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 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 .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;
- (4) disposition of animals including name and address of person to whom animal is sold, traded, transferred, or adopted, and the date and time of such transaction; name and address of intermediary transporter if used; in the event of death, the record shall show the date, signs of illness, and cause of death if identified; if euthanized, the record shall show date and type of euthanasia;
- (5) record of veterinary care including medications, treatments, procedures, and immunizations. The record shall include: diagnosis(es), diagnostic testing and results, date and time of administration or procedure, description of medication and initials of person administering any product, medication or procedure. The description of the medication shall include the name, strength or concentration, dosage, and dosing regimen. The dosage regimen shall include the frequency, duration to include the number of dosages or days to be given and the reason for the administration; and
- (6) all records shall be created and/or updated within 48 hours of the occurrence of procedures, including but not limited to intake, change of location, medication or treatment administration and/or disposition. The record shall be accurate; creation of a misleading record or deliberate or non-incident falsification of a record including medication administration documentation during or after an investigation or inspection shall be considered a violation of this regulation.

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;
 - (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
- (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.
- (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.
- (i) An adequate drainage system must be provided for the facility.
- (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.
- (r) All licensed and registered facilities must develop and maintain a plan of action for the continuity of care and/or evacuation of animals in the event of a natural or manmade disaster.

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.
- (c) Indoor housing facilities for dogs and cats shall have sufficient illumination to permit routine inspections, maintenance, cleaning and housekeeping of the facility and observation of the animals. Illumination shall provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the animal facilities.
- (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.
- (e) Drainage of indoor housing facility:
- (1) a suitable method of drainage shall be provided to rapidly eliminate excess water from an indoor housing facility;

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;
- (b) Exercise areas of outdoor facilities:
 - (2) use gravel for groundcover so long as it is maintained at a minimum depth of six inches and kept in a sanitary manner; and/or
 - (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).
- (f) Outdoor common areas used for play, enrichment and elimination shall be maintained in good repair and be properly cleaned and sanitized as set forth in 02 NCAC 52J .0207 to protect the animals from injury and/or illness.
- (h) A suitable method of drainage shall be provided so that water is adequately drained from the primary enclosures, common areas, exercise areas and walkways and so that the animal(s) does/do not have access to standing water.

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.
- (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.
- (e) Exercise areas shall be constructed to provide adequate space to allow each dog or cat to run and express natural play behaviors typical of the species.
- (h) Each primary enclosure and exercise area shall be provided with a solid resting surface or surfaces adequate to comfortably hold all occupants of the primary enclosure and exercise area at the same time. All resting surfaces shall be of a non-porous or easily sanitized material, such as a solid floor, 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; 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.
- (c) Water in receptacles shall be changed daily and whenever visibly soiled.

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;
- (3) primary enclosures, cages, rooms, hard-surfaced or artificial turf exercise areas, pens, and runs shall be sanitized by:
 - (A) washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; or
 - (B) removal of visible organic matter, precleaning all soiled surfaces with a detergent or degreaser solution, followed by the application, at the correct concentration, of an animal-safe disinfectant labeled to be effective against common pathogens. The disinfectant is to be left on the surfaces for the time indicated by the manufacturer. After such time, all surfaces shall be thoroughly rinsed to remove all residual chemicals and then the area dried prior to returning the animal(s) to this area; or
 - (C) cleaning all soiled surfaces with live steam. The area is to be cooled and dried prior to the return of the animal(s).
- (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;
- (8) fans, including floor fans, ceiling fans, wall fans, vent fans, etc. shall be kept clean of accumulated debris, dust and biological material.

(e) 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.

(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:

- (6) All facilities shall designate an isolation area for animals being treated or observed for communicable diseases. Dogs or cats in isolation that are being treated for a communicable disease shall be separated from other dogs or cats and other susceptible species of animals in such a manner as to minimize dissemination of such disease. A sign shall be posted at the cage or isolation area when in use, giving notice of a communicable disease, including the identification of the disease. Accessories, cleaning equipment and supplies used in isolation areas shall not be used in other areas of the facility.
- (7) Animals in long term care must be provided with human interaction other than interaction for enclosure cleaning, same species social interaction, opportunity for play and exercise, and environmental enrichment daily. The provision of these daily interactions and enrichment shall be adequate for the animal's species, age, size and behavior needs. In addition:
- (a) The provision of the daily social interactions and enrichment shall be documented in the animal's records and the records maintained for three years; and
 - (b) Exemptions from these long-term care provisions are allowed only for safety or health reasons and must be approved by a veterinarian. This exemption must be reviewed and renewed every 30 days if the continuation is necessary. Documentation of the exemption must include the reason for the exemption, the name and contact information of the veterinarian authorizing the exemption, the original exemption date and the dates of review and renewal and alternative(s) offered if any.

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

02 NCAC 52J .0210 VETERINARY CARE

(d) Each dog and cat shall be observed daily by the animal caretaker who has been adequately trained or is experienced in animal care or is under the direct supervision of a person who has such training or experience. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with adequate veterinary care in a timely manner or be euthanized, provided that the euthanasia shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If an animal cannot be euthanized due to a required holding period and does not meet the criteria of G.S. 19A-32.1(b)(2), then adequate veterinary care shall be provided to the animal.

*History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005;
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:
fitzgeraldella@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/vet/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, urn 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.



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:
fitzgeraldella@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 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 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 .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.

**Animal Welfare Section
NC Department of Agriculture and Consumer Services
1030 Mail Service Center
Raleigh, NC 27699-1030**

Phone: (919) 707-3280 Fax: (919) 733-6431
Email: agr.aws@ncagr.gov
Website: www.ncaws.com

Facility Compliance Inspection - Animal Shelter

Disapproved - 06/27/2023

License Number: 232	Phone: (252)243-7450
Facility Name: FOR THE LOVE OF DOGS	
Owner: DELLA & MAX FITZ-GERALD, PHD	
Address: 5146 QUAKER ROAD	
City: WILSON	Zip Code: 27893
County: WILSON	
Email: FITZGERALDDELLA@GMAIL.COM	
Total Enclosures: 80	
Dogs on Premises: 53	Cats on Premises:
Licensed Capacity (Dogs): 55	Licensed Capacity (Cats):
Type of Inspection: Annual Inspection	Date of Inspection: 06/27/2023

02 NCAC 52J .0101 RECORDS

1. Origin and date received. [02 NCAC 52J .0101(1)] - **Not In Compliance**
2. Description [02 NCAC 52J .0101(2)] - **In Compliance**
3. Location [02 NCAC 52J .0101(3)] - **In Compliance**
4. Disposition of animals
 - o name and address of person including transporter [02 NCAC 52J .0101(4)] - **Not In Compliance**
 - o death - date, signs of illness, or cause of death if identified [02 NCAC 52J .0101(4)] - **In Compliance**
 - o euthanasia [02 NCAC 52J .0101(4)] - **In Compliance**
5. Record of veterinary care. [02 NCAC 52J .0101(5)] - **Not In Compliance**
6. Records created or updated within 48 hours [02 NCAC 52J .0101(6)] - **Not In Compliance**
7. Records are accurate [02 NCAC 52J .0101(6)] - **Not In Compliance**

[02 NCAC 52J .0101(1)] - The information on the location of where the dogs originated from was not listed on any of the intake forms [02 NCAC 52J .0101(4)] -4) disposition of animals including name and address of person to whom animal is sold, traded transferred, or adopted was not maintained by the shelter. [02 NCAC 52J .0101(5)] – the required documentation for the administration of medication to the dog in the small white building (named may have been Tank) for the eye problem was not maintained by the shelter [02 NCAC 52J .0101(6)] - The overall records on the majority of the dogs housed at the shelter were not accurate or did not contain the required information.

02 NCAC 52J .0103 INSPECTION OF RECORDS

1. Records available upon request. [02 NCAC 52J .0103] - **In Compliance**
2. Animals matched to record. [02 NCAC 52J .0103] - **In Compliance**
3. Records retained for 3 years. [02 NCAC 52J .0103] - **In Compliance**

02 NCAC 52J .0105 LICENSES AND REGISTRATIONS

1. AWS notified of change of name, address or contact within 10 days [02 NCAC 52J .0105(3)] - **In Compliance**

02 NCAC 52J .0201 GENERAL

1. Housing facilities structurally sound and maintained in good repair. [02 NCAC 52J .0201(a)] - **Not In Compliance**
2. Housing facilities contain the animals and restrict entry of other animals and people. [02 NCAC 52J .0201(a)] - **Not In Compliance**
3. Light fixtures and electrical outlets in animal areas in compliance with the State Building Code. [02 NCAC 52J .0201(b)] - **Not In Compliance**
4. Electrical appliances, light fixtures, outlets and cords located or protected so animals do not have access to them. [02 NCAC 52J .0201(b)] - **Not In Compliance**
5. Adequate electric power to comply with AWA. [02 NCAC 52J .0201(c)] - **In Compliance**
6. Storage of food and bedding:
 - stored in cabinets or sealed containers that adequately protect against infestation or contamination by vermin and insects, [02 NCAC 52J .0201(d)(1)] - **Not In Compliance**
 - open bags of food and treats stored in airtight containers with lids, [02 NCAC 52J .0201(d)(2)] - **Not In Compliance**
 - refrigeration for perishables including opened cans of food, [02 NCAC 52J .0201(d)(3)] - **In Compliance**
 - clean bedding and laundry stored in cabinets or sealed containers, stored separately from soiled laundry and materials, and stored separately from general housing, [02 NCAC 52J .0201(d)(4)] - **Not In Compliance**
 - bedding in isolation areas stored in sealed cabinets and only used for isolation animals. [02 NCAC 52J .0201(d)(5)] - **Not In Compliance**
7. Daily removal and disposal of animal and food waste, bedding and debris assuring facility is maintained in a clean and sanitary manner. [02 NCAC 52J .0201(e)] - **Not In Compliance**
8. Hot and cold running, potable water available. [02 NCAC 52J .0201(f)] - **In Compliance**
9. Washroom, basin or sink provided to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles. [02 NCAC 52J .0201(f)] - **In Compliance**
10. Ability to confirm ambient temperature. [02 NCAC 52J .0201(g)] - **In Compliance**
11. Functional room thermometer present in each area of indoor enclosures, common areas and exercise areas. [02 NCAC 52J .0201(g)] - **Not In Compliance**
12. A separate five-foot perimeter fence if any animals have unsupervised access to an outdoor enclosure, common area or exercise area. [02 NCAC 52J .0201(h)] - **In Compliance**
13. Adequate drainage system. [02 NCAC 52J .0201(i)] - **Not In Compliance**
14. All areas of a facility available for review or inspection during normal business hours. [02 NCAC 52J .0201(j)] - **In Compliance**
15. All animals in a facility subject to the requirements of the Animal Welfare Act, regardless of ownership. [02 NCAC 52J .0201(k)] - **In Compliance**
16. Compliance with all federal, state and local laws, rules and ordinances relating to or affecting the welfare of dogs and cats in its facility. [02 NCAC 52J .0201(l)] - **In Compliance**
17. Registrant and all agents of facility shall be truthful with AWS during inspections or investigations. [02 NCAC 52J .0201(m)] - **In Compliance**
18. Applicant, registrant, or agent of facility may not abuse, harass, delay or obstruct any AWS inspector or official while they are attempting to discharge their official duties. [02 NCAC 52J .0201(n)] - **In Compliance**
19. No dog or cat present in a window display except during business hours and in compliance with standards set forth in this Section. [02 NCAC 52J .0201(o)] - **In Compliance**
20. Facility equipped with operational smoke alarm and carbon monoxide alarm. [02 NCAC 52J .0201(q)] - **Not In Compliance**
21. Facility equipped with means of fire suppression. [02 NCAC 52J .0201(q)] - **In Compliance**
22. Plan of action for continuity of care and/or evacuation of animals in event of natural or manmade disaster developed and maintained. [02 NCAC 52J .0201(r)] - **Not In Compliance**
23. Written standards for approved foster care provider maintained and include: application process, sanitation protocols, daily observation, feeding/watering protocols, provision/documentation of veterinary care, provision of long-term care requirements of 02 NCAC 52J .0209(7), requirements for inspection by the shelter, and compliance of foster care provider with the NC AWA when applicable. [02 NCAC 52J .0201(s)] - **Not Applicable**
24. Written standards for approved rescue organization maintained and include: application process, sanitation protocols, daily observation, feeding/watering protocols, provision/documentation of veterinary care, provision of long-term care requirements of 02 NCAC 52J .0209(7), requirements for inspection by the shelter, and compliance of the rescue organization with the NC AWA when applicable. [02 NCAC 52J .0201(t)] - **Not Applicable**

[02 NCAC 52J .0201(a)] - [02 NCAC 52J .0201(a)] - The interior and exterior bottoms of the front door frame in the gray building have not been repaired. This violation was previously cited on the 2/22/22, 4/20/ 22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0201(b)] - There is an outside electrical box that is pulled away from the outside wall on the small white house. This is a hazard and has been cited on previously on the 7/5/22 and 1/17 /23 FCI reports. [02 NCAC 52J .0201(d)] - Open containers of dog were present – dog food is not being adequately stored. [02 NCAC 52J .0201(e)] - The entire kennel floor in the Gray building is covered in fresh and dried feces and dried urine. There is an open bucket of feces in the center of the walkway in

front of the dog kennels. Hair, dirt and small debris has accumulated throughout the kennels. The food prep and storage areas are full of dirty clutter in the Gray building. This violation was previously cited on the 4/20/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0201(d)(1)] - The window located on the small white building is broken and has not been replaced. This is a hazard and has been cited on previously cited on the 7/5/22 and 1/17/23 FCI reports. The jagged glass pieces must be removed immediately as they posed an imminent risk of injury to the dogs. [02 NCAC 52J .0201(d)(2)] - There were numerous dog food bags not in sealed containers. [02 NCAC 52J .0201(d)(4)] - The clean and dirty laundry was not separated and there were mouse droppings on the laundry. [02 NCAC 52J .0201(e)] - The Gray building floor and kennels had dry and wet feces and urine with in the kennels currently housing dogs. There are feces in the Gray building that appear to be so old the feces are starting to deteriorate into powder. The air quality is so poor inside the Gray building due to the high level of ammonia and overwhelming smell of feces and urine that it is hard to breath inside the building. This violation was previously cited on the 2/22/22, 4/20/22 and 1/17/23 FCI reports. [02 NCAC 52J .0201(g)] - There are no thermometers visible within the Gray building. The Clinic building has working thermometers. [02 NCAC 52J .0201(i)] - There are no drains within the gray building that allow for proper drainage. This was brought to the attention of addressed with Wilson Co. Environmental Health Department in January 2023. There appears no action has been taken to address the inadequate drainage system in the Gray building. This violation was previously cited on the 1/17/23 FCI reports. [02 NCAC 52J .0201(q)] - There are no operational smoke alarms or carbon monoxide monitors in the shelter buildings. [02 NCAC 52J .0201(r)] - There is no disaster plan that we have been shown for the facility. [02 NCAC 52J .0201(a)] -

02 NCAC 52J .0202 INDOOR FACILITIES

1. Indoor housing facilities adequately heated and cooled. [02 NCAC 52J .0202(a)(1)] - In Compliance
2. Ambient temperature between 50°F and 85°F. [02 NCAC 52J .0202(a)(2)] - In Compliance
3. Special provisions provided as needed and documented. [02 NCAC 52J .0202(a)(3)] - In Compliance
4. Indoor housing facilities adequately ventilated. [02 NCAC 52J .0202(b)(1)] - Not In Compliance
5. Fresh air and ventilation provided, and drafts minimized. [02 NCAC 52J .0202(b)(1)] - Not In Compliance
6. Air vents/filters cleaned/changed to minimize buildup and inhibition of air flow. [02 NCAC 52J .0202(b)(2)] - Not In Compliance
7. Air flow adequate to minimize odors and moisture condensation. [02 NCAC 52J .0202(b)(3)] - Not In Compliance
8. Indoor housing facilities adequately illuminated. [02 NCAC 52J .0202(c)] - Not In Compliance
9. Illumination provides regular diurnal lighting cycles and is uniformly diffused. [02 NCAC 52J .0202(c)] - Not In Compliance
10. Interior building surfaces are impervious to moisture and can be readily sanitized. [02 NCAC 52J .0202(d)] - Not In Compliance
11. Drainage rapidly eliminates excess water. [02 NCAC 52J .0202(e)(1)] - Not In Compliance
12. Closed drain systems equipped with traps and installed to prevent odors and backup of sewage. [02 NCAC 52J .0202(e)(2)] - Not In Compliance
13. Drainage system constructed with barriers to prevent cross-contamination among animals. [02 NCAC 52J .0202(e)(3)] - In Compliance

[02 NCAC 52J .0202(b)(1)] - The ventilation in the Gray building is inadequate. This violation was previously cited on the 4/20/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0202(b)(2)] - The air vents in the gray building and the clinic building were not cleaned as often as necessary to minimize buildup of debris, dust and biological material. The air vents were not cleaned as often as necessary to prevent inhibition or restriction or air flow. This violation was previously cited on the 4/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0202(b)(3)] - There is hardly any air flow within the Gray building even with the back door open. The air flow was not adequate to minimize odors and moisture condensation. This violation was previously cited on the 4/20/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0202(c)] - The lights in the Gray building were too dim to provide sufficient illumination to permit routine inspections, maintenance and cleaning of the shelter. The light bulbs need to be replaced. [02 NCAC 52J .0202(d)] - The floors and kennels within the Clinic and the Gray building are not

impervious to moisture. This violation was previously cited on the 2/22/22, 4/20/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0202(e)(1)] - The drainage in the Gray building is nonexistent and therefore is inadequate. This violation was previously cited on the 1/17/23 FCI reports.

02 NCAC 52J .0203 OUTDOOR FACILITIES

1. Primary enclosures, common areas, and walkways are constructed of sealed concrete or other surfaces impervious to moisture. [02 NCAC 52J .0203(a)(1)] - **Not In Compliance**
2. Gravel maintained at a minimum depth of six inches and kept sanitary. [02 NCAC 52J .0203(a)(2)] - **Not In Compliance**
3. Exercise areas are constructed of sealed concrete or other surfaces impervious to moisture. [02 NCAC 52J .0203(b)(1)] - **Not In Compliance**
4. Gravel in exercise areas maintained at a minimum depth of six inches and kept sanitary. [02 NCAC 52J .0203(b)(2)] - **Not In Compliance**
5. Artificial turf maintained in good repair or replaced and is cleaned and sanitized as required. [02 NCAC 52J .0203(b)(3)] - **Not Applicable**
6. Exercise areas with established grass has no bare dirt, kept clean and sanitary. [02 NCAC 52J .0203(b)(4)] - **Not In Compliance**
7. Exercise areas with established grass addressed in the written protocol when required [02 NCAC 52J .0203(b)(4)] - **Not In Compliance**
8. Sand or organic materials are not used in primary enclosures, common areas, exercise areas or walkways [02 NCAC 52J .0203(c)] - **Not Applicable**
9. Outdoor housing provided allows animals to remain dry and comfortable during inclement weather. [02 NCAC 52J .0203(d)] - **Not Applicable**
10. Housing is impervious to moisture and can be cleaned and sanitized. [02 NCAC 52J .0203(d)(1)] - **Not Applicable**
11. One house available for each animal within each enclosure. [02 NCAC 52J .0203(d)(2)] - **Not Applicable**
12. Enclosure with mother and her unweaned offspring, one house available of adequate size to comfortably house mother and all offspring together [02 NCAC 52J .0203(d)(2)] - **Not Applicable**
13. Housing contains clean dry bedding or heat source when <32 degrees F [02 NCAC 52J .0203(d)(3)] - **Not Applicable**
14. Special provisions provided when needed and documented [02 NCAC 52J .0203(d)(4)] - **Not Applicable**
15. No infirm animals housed outdoors [02 NCAC 52J .0203(d)(4)] - **Not Applicable**
16. Adequate protection is sufficient to protect all animals simultaneously in exercise areas [02 NCAC 52J .0203(e)] - **In Compliance**
17. Animals unable to maintain body temperature in outdoor exercise areas are not present in these areas [02 NCAC 52J .0203(e)] - **In Compliance**
18. Outdoor common areas maintained in good repair and properly cleaned and sanitized [02 NCAC 52J .0203(f)] - **Not In Compliance**
19. Suitable method of drainage provided for primary enclosures, exercise areas and walkways so that there is no access to standing water. [02 NCAC 52J .0203(h)] - **Not In Compliance**

[02 NCAC 52J .0203(a)(1)] - The concrete floor of the porch of the Gray building needs resealing. [02 NCAC 52J .0203(a)(2)] - The gravel on the outside of the clinic building is insufficient and needs to be replenished to a depth of 6 inches. This violation was previously cited on the 2/22/22, 4/20/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0203(b)(2)] – The gravel depth of the exercise areas outside of the Clinic building is insufficient and more gravel needs to be added. This violation was previously cited on the 2/22/22, 4/20/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0203(b)(4)] - The outside yards of the Gray building and the Clinic building have bare dirt showing and are not in compliance. This violation was previously cited on the 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0203(f)] - All the outside yards where dogs are have access to exercise for both the Clinic building and Gray building needs to be covered with additional gravel or canine grass. This violation was previously cited on the 1/17/23 FCI reports. [02 NCAC 52J .0203(h)] – Around the Gray building, the little white building and the Clinic building, there is standing water around the outside yards utilized by dogs. There are holes dug by dogs that hold rainwater and the dogs are drinking the water from these holes. This violation was observed on today's inspection.

02 NCAC 52J .0204 PRIMARY ENCLOSURES

1. Primary enclosures are constructed to prevent contamination from waste and wastewater from animals in other enclosures. [02 NCAC 52J.0204(a)] - **In Compliance**
2. All surfaces with which an animal comes in contact impervious to moisture. [02 NCAC 52J .0204(a)] - **Not In Compliance**
3. For primary enclosures placed into service on or after January 1, 2005, no wood within the animal's reach. [02 NCAC 52J .0204(b)] - **Not In Compliance**
4. For primary enclosures in use in a registered facility prior to January 1, 2005, any damaged wood replaced so that there is no contact with wood by the animal. [02 NCAC 52J .0204(b)] - **Not In Compliance**

5. Primary enclosures and exercise areas structurally sound, maintained in good repair and in a manner to prevent injury to animals, and keep other animals out. [02 NCAC 52J .0204(c)] - Not In Compliance
6. Primary enclosures provide space to allow animal to walk, turn about freely, and to stand with tails erect, sit, or lie in a natural position with limbs extended without touching other animals or sides or top of enclosure. [02 NCAC 52J .0204(d)] - In Compliance
7. Exercise areas shall be constructed to provide adequate space for animals to run and express natural play behaviors. [02 NCAC 52J .0204(e)] - Not In Compliance
8. The height of primary enclosures other than cage is not less than five feet. [02 NCAC 52J .0204(f)] - In Compliance
9. All enclosures constructed as to prevent the escape of animals. [02 NCAC 52J .0204(g)] - Not In Compliance
10. Each primary enclosure and exercise area provided with a solid resting surface(s) adequate to comfortably hold all occupants at the same time. [02 NCAC 52J .0204(h)] - Not In Compliance
11. All resting surfaces made of a non-porous or easily sanitized material, such as solid floor, a towel, or a disposable material such as newspaper. [02 NCAC 52J .0204(h)] - In Compliance
12. The resting surface or surfaces are elevated in primary enclosures housing two or more cats. [02 NCAC 52J .0204(h)] - Not Applicable
13. In addition to Paragraph (d) of 02 NCAC 52J .0204, each dog shall be provided with the minimum square footage required by 02 NCAC.0204(i). [02 NCAC 52J .0204(i)] - In Compliance
14. Not more than four adult dogs housed in the same primary enclosure or exercise area without supervision. [02 NCAC 52J .0204(j)] - Not Applicable
15. Dogs younger than 6 months shall not be housed/comingled with adult dogs (except dam) [02 NCAC 52J .0204(j)] - Not Applicable
16. If more than four dogs are housed in an exercise area or enclosure, then at least one person is supervising each 10 dogs housed within each enclosure or common area. [02 NCAC 52J .0204(k)] - Not Applicable
17. Supervision conducted from within the exercise area or enclosure with immediate access to animals. [02 NCAC 52J .0204(k)] - In Compliance
18. Pregnant animals housed singly. [02 NCAC 52J .0204(l)] - Not Applicable
19. Nursing animals housed only with litter until litter is weaned. [02 NCAC 52J .0204(l)] - Not Applicable
20. Enclosure for nursing animal of sufficient size for dam and all animals of litter to walk, turn about freely, nurse and stand with tails erect, sit or lie in natural position with limbs extended without touching other animals or sides/top of enclosure. [02 NCAC 52J .0204(l)] - Not Applicable
21. Enclosure for nursing animal and litter shall allow the animals to leave the whelping/queening area for exercise. [02 NCAC 52J .0204(l)] - Not Applicable
22. In addition to Paragraph (d), (e) and (h) of 02 NCAC 52J .0204, each feline older than six months housed in any primary enclosure provided with a minimum of 4 sq. ft. of floor space which may include elevated resting surfaces. [02 NCAC 52J .0204(m)] - Not Applicable
23. Each feline younger than 6 months provided 1.5 sq. ft. [02 NCAC 52J .0204(m)] - Not Applicable
24. No more than 12 cats housed in the same primary enclosure or exercise area. [02 NCAC 52J .0204(n)] - Not Applicable
25. In all cat enclosures and exercise areas, a clean receptacle with clean litter provided for waste. [02 NCAC 52J .0204(o)] - Not Applicable
26. A minimum of one receptacle per three cats shall be provided for each enclosure and exercise area. [02 NCAC 52J .0204(o)] - Not Applicable
27. Supervision provided for pools other than kiddie pools. [02 NCAC 52J .0204(p)(2)] - Not Applicable
28. Pool facilities constructed, maintained and managed to protect animals from illness, injury or death [02 NCAC 52J .0204(p)(3)] - Not Applicable
29. Pools with >100 gallons: commercial filtration and cleaning system installed and manufacture recommendations implemented [02 NCAC 52J .0204(p)(4)] - Not Applicable
30. Kiddie pools cleaned, sanitized, repaired and maintained as required for accessories [02 NCAC 52J .0204(p)(5)] - Not Applicable

[02 NCAC 52J .0204(a)] - The primary enclosures do not prevent wastewater and waste from contaminating adjacent kennels in the Gray building. This violation was previously cited on the 2/22/22, 4/20/22, and 7/5/22 FCI reports. [02 NCAC 52J .0204(b)] - There are wooden stakes that are utilized in the Gray building to hold the information card on the dog. However, these boards are accessible to the dogs housed within the enclosure as evidenced by the chew marks. The sharp end of the wood stakes could cause an injury to a dog. Very few of the stakes have information cards on them as most of the dogs within the primary enclosures are not identified. [02 NCAC 52J .0204(c)] - In the outside yards of the small white house, the fencing is reinforced by pieces of rebar and T-posts. The T-posts and rebar pieces are upside down exposing the sharp edges posing a significant risk of an injury to the dogs. These T-posts and pieces of rebar are unsafe and need to be removed ASAP. This violation was previously cited on the 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0204(e)] - There are numerous dugout holes within the outside play enclosures. The holes pose a risk of injury to the dogs and the employees. [02 NCAC 52J .0204(g)] - The primary enclosure kennels in the Gray building allow dogs to stick their heads out of the kennels underneath the metal bars on the side of the front gates which could cause a

dog to become stuck and injured. [02 NCAC 52J .0204(h)] - The resting surfaces in both the Clinic and Gray building need to be replaced. Many of the resting surfaces are significantly damaged and have large holes posing a risk of injury to the dog and negating its use as a resting surface. Also, in the Gray building dogs have been defecating on the resting surfaces and the resting surfaces have not been cleaned or sanitized.

02 NCAC 52J .0205 FEEDING

1. Dogs and cats fed at least once each 24-hour period. [02 NCAC 52J .0205(a)] - In Compliance
2. Puppies and kittens less than six months of age fed at least twice in each 24-hour period. An eight-hour interval between feedings if only two feedings are offered in a 24-hour period. [02 NCAC 52J .0205(b)] - Not Applicable
3. Exemption from 02 NCAC 52J .0205(a) or (b) only allowed if prescribed by veterinarian. [02 NCAC 52J .0205(c)] - In Compliance
4. Exemption allowed by 02 NCAC 52J .0205(c) must be documented by the shelter. [02 NCAC 52J .0205(c)] - In Compliance
5. The documentation of the exemption is to include:
 - o the original veterinary directive signed by the veterinarian issuing it, [02 NCAC 52J .0205(c)(1)] - In Compliance
 - o the printed name of the veterinarian, [02 NCAC 52J .0205(c)(2)] - In Compliance
 - o the reason for the restriction, [02 NCAC 52J .0205(c)(3)] - In Compliance
 - o the specific feeding directions, [02 NCAC 52J .0205(c)(4)] - In Compliance
 - o the origination and review dates of the directive, [02 NCAC 52J .0205(c)(5)] - In Compliance
 - o the facility shall have the veterinarian review and renew the directive every 30 days until it is no longer required, [02 NCAC 52J .0205(c)(6)] - In Compliance
 - o the date of the cessation of the directive, [02 NCAC 52J .0205(c)(7)] - In Compliance
 - o documentation by the facility of each feeding as prescribed by the veterinarian. [02 NCAC 52J .0205(c)(8)] - In Compliance
6. Food is commercially prepared food complying with laws applicable to animal feed. [02 NCAC 52J .0205(d)] - In Compliance
7. The food is free from contamination, wholesome, palatable, and of sufficient quality and quantity appropriate for the given size, age, and condition of an animal meeting the daily requirements for nutritional value. [02 NCAC 52J .0205(e)] - In Compliance
8. Food receptacles accessible to all dogs or cats. [02 NCAC 52J .0205(f)] - In Compliance
9. Food receptacles located to minimize contamination by waste. [02 NCAC 52J .0205(f)] - In Compliance
10. For every adult animal, at least one food receptacle offered. [02 NCAC 52J .0205(g)] - In Compliance
11. When multiple animals are housed together, caretakers observe each animal feeding to ensure that each animal receives adequate feed. [02 NCAC 52J .0205(g)] - In Compliance
12. Food receptacles durable, clean and sanitized. [02 NCAC 52J .0205(h)] - In Compliance
13. Uneaten food within receptacles discarded within 24 hours or sooner if spoiled or contaminated. [02 NCAC 52J .0205(i)] - In Compliance
14. Damaged receptacles replaced. [02 NCAC 52J .0205(j)] - In Compliance
15. Disposable food receptacles discarded after each feeding. [02 NCAC 52J .0205(j)] - Not Applicable
16. Food and water receptacles in outdoor facilities protected from the elements. [02 NCAC 52J .0205(k)] - Not Applicable

02 NCAC 52J .0206 WATERING

1. Continuous access to fresh water, except as might otherwise be required to provide adequate veterinary care. [02 NCAC 52J .0206(a)] - **Not In Compliance**
2. Exemptions to [02 NCAC 52J .0206(a)] only if prescribed by veterinarian with proper documentation and renewal. [02 NCAC 52J .0206(b)] - In Compliance
3. The documentation of the exemption is to include:
 - o the original veterinary directive signed by the veterinarian issuing it, [02 NCAC 52J .0206(b)(1)] - In Compliance
 - o the printed name of the veterinarian, [02 NCAC 52J .0206(b)(2)] - In Compliance
 - o the reason for the restriction, [02 NCAC 52J .0206(b)(3)] - In Compliance
 - o the specific watering directions, [02 NCAC 52J .0206(b)(4)] - In Compliance
 - o the origination and review dates of the directive, [02 NCAC 52J .0206(b)(5)] - In Compliance
 - o the facility shall have the veterinarian review and renew the directive every 30 days until it is no longer required, [02 NCAC 52J .0206(b)(6)] - In Compliance
 - o the date of the cessation of the directive, [02 NCAC 52J .0206(b)(7)] - In Compliance
 - o documentation by the facility of each provision of water as prescribed by the veterinarian. [02 NCAC 52J .0206(b)(8)] - In Compliance
4. Water changed daily and when soiled. [02 NCAC 52J .0206(c)] - **Not In Compliance**
5. Watering receptacles durable, clean and sanitized. [02 NCAC 52J .0206(d)] - In Compliance
6. Damaged receptacles replaced. [02 NCAC 52J .0206(e)] - In Compliance

[02 NCAC 52J .0206(a)] - Many of the water bowls especially inside the Gray building were dirty and appeared not to be changed or sanitized in more than a day. The water trough on the porch of the Gray building, which is the only water source for

dogs released into this area for exercise was ¼ full. Most of the material in the water trough was solid algae growth. There was very little actual water in the trough. A dog was exercising in this area when the inspection began, and the outside temperature was in the upper 80's. This dog did not have continuous access to fresh, potable water while in this exercise area. This violation was previously cited on the 2/22/22, 4/20/22, 7/5/22 and 1/17/23 FCI reports.

02 NCAC 52J .0207 SANITATION

1. Waste removed from primary enclosures and exercise areas to prevent contamination of the dogs or cats and to reduce disease hazards and odors. [02 NCAC 52J .0207(a)] - Not In Compliance
2. Enclosures and exercise areas for dogs and cats properly cleaned a minimum of two times per day. [02 NCAC 52J .0207(a)] - Not In Compliance
3. The animal must be able to walk or lie down without coming in contact with any waste or debris. [02 NCAC 52J .0207(a)] - Not In Compliance
4. When a hosing or flushing method is used for cleaning an enclosure, animals are removed during the cleaning process, and measures taken to protect the animals in other such enclosures from being contaminated with water and other wastes. [02 NCAC 52J .0207(b)] - In Compliance
5. Cross contamination barrier in place and sufficient to prevent feces, urine and waste water from entering another occupied enclosure. [02 NCAC 52J .0207(c)] - In Compliance
6. Prior to the introduction of dogs or cats into empty primary enclosures previously occupied, enclosures and accessories sanitized in the manner provided in 02 NCAC 52J .0207(b)(3). [02 NCAC 52J .0207(b)(1)] - In Compliance
7. In addition to primary enclosures being properly cleaned a minimum of two times per day, if the same animal is housed in the same enclosure more than seven days, enclosures and accessories sanitized at least once every seven days in the manner provided in 02 NCAC 52J .0207(d)(3). [02 NCAC 52J .0207(d)(2)] - Not In Compliance
8. Enclosures, cages, rooms and hard-surfaced or turf exercise areas, pens and runs are sanitized by:
 - o washing them with hot water (180 degrees F.) and soap or detergent as in a mechanical cage washer; [02 NCAC 52J .0207(d)(3)(A-C)] - In Compliance
 - o removal of organic matter, precleaning all soiled surfaces with a detergent or degreaser solution followed by application of an animal-safe disinfectant labeled effective against common pathogens. Disinfectant left on for labeled time then all surfaces thoroughly rinsed to remove all residual chemicals and area dried prior to return of animal to the area; [02 NCAC 52J .0207(d)(3)(A-C)] - Not In Compliance
 - o cleaning all soiled surfaces with live steam, area cooled and dried prior to return of animal. [02 NCAC 52J .0207(d)(3)(A-C)] - Not In Compliance
9. Common areas, areas accessible to multiple animals, exercise areas and other areas kept clean and sanitary [02 NCAC 52J .0207(d)(4)] - Not In Compliance
10. Common areas, areas accessible to multiple animals, exercise areas and other areas properly cleaned a minimum of 2 times per day. [02 NCAC 52J .0207(d)(4)] - Not In Compliance
11. Hard/impervious surfaces in common areas, areas accessible to multiple animals, exercise areas and other areas sanitized a minimum of once every 7 days in the manner provided in 02 NCAC 52J (d)(3). [02 NCAC 52J .0207(d)(4)] - Not In Compliance
12. Food and water receptacles sanitized daily with hot water, detergent, and disinfectant consistent with disinfectant directions. [02 NCAC 52J .0207(d)(5)] - In Compliance
13. Soiled linens and cloth products mechanically washed with detergent and sanitized. [02 NCAC 52J .0207(d)(6)] - In Compliance
14. Any area accessible to multiple animals kept clean and sanitary. [02 NCAC 52J .0207(d)(7)] - In Compliance
15. Fans kept clean of accumulated debris, dust and biological material. [02 NCAC 52J .0207(d)(8)] - Not In Compliance
16. Premises (buildings and grounds) kept clean and in good repair to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this Rule. [02 NCAC 52J .0207(e)] - Not In Compliance
17. Premises are free of accumulations of trash, junk, waste products, and discarded matter. [02 NCAC 52J .0207(e)] - In Compliance
18. Weeds, grasses, and bushes controlled. [02 NCAC 52J .0207(e)] - In Compliance
19. Effective program for the control of insects, ectoparasites, and avian and mammalian pests [02 NCAC 52J .0207(f)] - Not In Compliance

[02 NCAC 52J .0207(a)] - The enclosures and exercise areas of the Gray building were not being properly cleaned twice daily. The dry feces have been present so long that they were turning into powder. It appears that the enclosures and exercise areas in the Gray building are not being properly cleaned at all. This violation was previously cited on the 2/22/22, 4/20/22, 7/5/22 and 1/17/23, FCI reports. [02 NCAC 52J .0207(a)] - The dogs in the Gray building have no place to lay down because of the accumulation of feces within the kennels; therefore the waste is no being removed with sufficient frequency to prevent contamination of the dogs. [02 NCAC 52J .0207(d)(2)] - The primary enclosures in the Clinic building are cleaned once a day but not twice daily as required. It does not appear that the sanitation required to occur at least every 7 days

for enclosures occupied by the same dog is being done by the shelter. The primary enclosures in the Gray building are not being properly cleaned even once daily and there does not appear these enclosures are being sanitized at all. [02 NCAC 52J .0207(d)(3)(A-C)] - The Gray building does not appear to be sanitized at all. This violation was previously cited on the 2/22/22, 4/20/22, 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0207(d)(4)] – The exercise area for the Gray building are not being kept clean or sanitary. The exercise area is not being properly cleaned twice daily as evidenced by the accumulation of dried and fresh feces in the outside yard areas. This violation was previously cited on the 7/5/22 and 1/17/23 FCI reports. [02 NCAC 52J .0207(d)(8)] - The fans of both buildings were not kept clean of accumulated debris, dust or biological material. The fans are so dirty no fresh air can be circulated through the buildings. The ceilings throughout both buildings need to be cleaned to remove the dust, cobwebs, and debris accumulation. [02 NCAC 52J .0207(e)] - There grounds are not in good repair as there are numerous holes in all areas of the yards of both buildings that need repair. This violation was previously cited on the 4/20/22 and 1/17/23 FCI reports. [02 NCAC 52J .0207(f)] – An effective program for the control of insects and mammalian pests is not established or maintained by the shelter as there are numerous areas within both buildings that contain rodent droppings, spider webs, and flies. While performing the inspection of the outside exercise area in front of the Gray building we observed what appeared to be some type of deceased animal in one of the dugout holes. The deterioration of the body was so advanced that a large population of maggots were present, and the type of animal could not be ascertained. At the beginning of the inspection, a dog was present in this exercise area and had access to this dead body.

02 NCAC 52J .0208 EMPLOYEES

1. Sufficient number of employees. [02 NCAC 52J .0208] - Not Applicable
2. Supervision of an animal caretaker who has a background in animal husbandry or care. [02 NCAC 52J .0208] - Not Applicable

02 NCAC 52J .0209 CLASSIFICATION AND SEPARATION

1. Animals in the same primary enclosure maintained in compatible groups. [02 NCAC 52J .0209] - In Compliance
2. Females in season (estrus) not be housed in the same primary enclosure with males except for planned breeding. [02 NCAC 52J .0209(1)] - In Compliance
3. Breeding not allowed in animal shelters. [02 NCAC 52J .0209(1)] - In Compliance
4. Aggressive animals housed individually in a primary enclosure. [02 NCAC 52J .0209(3)] - In Compliance
5. Aggressive animals housed to prevent bites or injury to other animals or humans. [02 NCAC 52J .0209(3)] - In Compliance
6. Puppies or kittens less than 6 months of age housed in the same primary enclosure with adults except dam. [02 NCAC 52J .0209(4)] - Not Applicable
7. Puppies or kittens between 4 and 16 weeks of age have daily access to human social interaction beyond cleaning/sanitation of enclosure. [02 NCAC 52J .0209(4)] - Not Applicable
8. Dogs not housed in the same primary enclosure with cats; dogs or cats not housed in the same primary enclosure with any other species of animals. [02 NCAC 52J .0209(5)] - Not Applicable
9. Designated isolation area for animals being treated or observed for communicable diseases. [02 NCAC 52J .0209(6)] - In Compliance
10. Dogs or cats in isolation that are being treated for a communicable disease separated as to minimize dissemination of disease. [02 NCAC 52J .0209(6)] - In Compliance
11. A sign posted at the cage or isolation area when in use. [02 NCAC 52J .0209(6)] - Not In Compliance
12. Accessories, cleaning equipment and supplies used in isolation areas not used in other areas of the facility. [02 NCAC 52J .0209(6)] - In Compliance
13. Animals in long term care provided with daily human interaction beyond enclosure cleaning. [02 NCAC 52J .0209(7)] - Not In Compliance
14. Animals in long term care provided with daily opportunity for play, exercise and environmental enrichment. [02 NCAC 52J .0209(7)] - Not In Compliance
15. Provision of daily social interaction and enrichment for long term care animals documented in animal's record and record maintained for 3 years. [02 NCAC 52J .0209(7)(a)] - Not In Compliance
16. Exemptions for long term care provisions only allowed for safety or health reasons and approved by veterinarian, properly reviewed and renewed every 30 days. [02 NCAC 52J .0209(7)(b)] - Not In Compliance
17. Exemptions for long term care properly documented. [02 NCAC 52J .0209(7)(b)] - Not In Compliance
18. All animals confined in primary enclosures or exercise areas. [02 NCAC 52J .0209(8)] - In Compliance

19. Primary enclosures and exercise areas inspected by AWS and found in compliance before being put into use. [02 NCAC 52J .0209(8)] - Not In Compliance

[02 NCAC 52J .0209(6)] - There are no signs up indicating an isolation area. [02 NCAC 52J .0209(7)] - Most of the dogs housed have been at the shelter for over year. There was no indication that the long term care dogs were provided with daily social interaction and enrichment. In addition there was no documentation of long term care on any of the shelter records. [02 NCAC 52J .0209(7)(a)] – None of the records for the animals housed at the shelter for more than 30 days documented provision of daily social interactions or enrichment. [02 NCAC 52J .0209(7)(b)] – It appears that no long term care animal was provided with daily social interaction and no animal had an exemption from the long-term care provisions documented in the animal's record. [02 NCAC 52J .0209(7)] - [02 NCAC 52J .0209(7)(b)] - [02 NCAC 52J .0209(8)] -

02 NCAC 52J .0210 VETERINARY CARE

1. Written program of veterinary care established with assistance of veterinarian. [02 NCAC 52J .0210(a)] - In Compliance
2. Facility implemented and is following the written program of veterinary care. [02 NCAC 52J .0210(a)(3)] - In Compliance
3. Changes to written program of veterinary care submitted to AWS within 10 days of effective date. [02 NCAC 52J .0210(a)(4)] - In Compliance
4. Veterinarian consulted if infectious disease outbreak present for more than 7 days and consultation documented. [02 NCAC 52J .0210(b)] - In Compliance
5. Veterinarian's written recommendations for correcting disease problem that persists for more than 30 days obtained and followed. Recommendations include sanitation of all areas and accessories and protocols for intake, evaluation, isolation, disease recognition, treatment and euthanasia. [02 NCAC 52J .0210(c)] - In Compliance
6. Daily observation of animals. [02 NCAC 52J .0210(d)] - In Compliance
7. Sick or diseased, injured, lame, or blind dogs or cats provided with adequate veterinary care in a timely manner or euthanized. [02 NCAC 52J .0210(d)] - Not In Compliance
8. If euthanasia is performed, a list of personnel approved to perform euthanasia maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0803. [02 NCAC 52J .0210(e)] - Not Applicable
9. Diseased or deformed animals sold or adopted only under the policy set forth in the 'Program of Veterinary Care'. [02 NCAC 52J.0210(f)] - Not Applicable
10. Full written disclosure of the medical condition and all medical treatments provided to the new owner or entity receiving the animal [02 NCAC 52J .0210(g)] - In Compliance
11. Documentation of receipt of full written disclosure signed by receiving party maintained in animal's record. [02 NCAC 52J .0210(g)] - In Compliance
12. All animals in a registered facility in compliance with the North Carolina rabies law, G.S. 130A, Article 6, Part 6. [02 NCAC 52J .0210(h)] - In Compliance
13. If surgical procedures are performed at the facility:
 - o surgical procedures only performed on animals owned by the facility [02 NCAC 52J .0210(i)(1)] - Not Applicable
 - o NC licensed veterinarian appointed as supervising veterinarian to be responsible for performance of all surgical procedures and condition of surgical facility [02 NCAC 52J .0210(i)(2)] - Not Applicable
 - o designated surgical area meets the minimum standards of 21 NCAC 66 .0207(b)(9) [02 NCAC 52J .0210(i)(4)] - Not Applicable
 - o drug procedures for surgical procedures meet the minimum standards in 21 NCAC 66.0207(b)(11) [02 NCAC 52J .0210(i)(4)] - Not Applicable
 - o recordkeeping procedures for surgical procedures meet the minimum standards in 21 NCAC 66 .0207(b)(12) [02 NCAC 52J .0210(i)(4)] - Not Applicable
 - o minimum standards for after-hours emergency service in 21 NCAC 66 .0207(b)(19) for the provision of after-hours emergency veterinary care for an animal receiving surgical procedure(s) are met [02 NCAC 52J .0210(i)(5)] - Not Applicable
 - o surgical procedures are not performed until the inspection of the surgical facility and supporting procedures noted in this section has occurred and all deficiencies have been corrected [02 NCAC 52J .0210(i)(6)] - Not Applicable

[02 NCAC 52J .0210(d)] - There is a dog located in the small white house area that had a large accumulation of dried ocular discharge around both eyes. The left eye globe was pulled back into the eye socket which typically indicates eye pain or sensitivity. There did not appear to be any visible evidence that the dog's eyes had received medication. The owner of the shelter stated that they were aware of the dog's eye issue and had been giving some ointment on the eyes on occasion. When asked to see the medication log for the administration of the medication, the shelter owner indicated that there wasn't one. The owner was unable to say when the last dose

occurred. The shelter owner had not taken this dog to a veterinarian for a diagnosis of the eye problem or to get a prescription for the proper medication for the condition. The dog requires immediate examination by a veterinarian. The shelter owner advised she would take the dog to be examined.

02 NCAC 52J .0301 VEHICLES

1. Vehicles mechanically sound. [02 NCAC 52J .0301(a)] - In Compliance
2. Vehicles equipped to provide fresh air to animals. [02 NCAC 52J .0301(a)] - In Compliance
3. The animal cargo space constructed and maintained to prevent engine exhaust fumes from getting to the animals. [02 NCAC 52J .0301(b)] - In Compliance
4. The interior of the animal holding space properly cleaned after transport of each animal. [02 NCAC 52J .0301(c)] - In Compliance
5. The interior of the animal holding space sanitized between use for shipments. [02 NCAC 52J .0301(c)] - In Compliance

02 NCAC 52J .0302 PRIMARY ENCLOSURES USED IN TRANSPORTING DOGS AND CATS

1. Primary enclosures are constructed, ventilated and designed to protect the health and insure the safety of the animals. [02 NCAC 52J .0302(a)] - In Compliance
2. Such enclosures constructed or positioned so that:
 - o Each animal in the vehicle has adequate fresh air for normal breathing. [02 NCAC 52J .0302(a)(1)] - In Compliance
 - o The openings of enclosures are always easily accessible for emergency removals. [02 NCAC 52J .0302(a)(2)] - In Compliance
 - o The animals are adequately protected from the elements. [02 NCAC 52J .0302(a)(3)] - In Compliance
3. The ambient temperature maintained between 50°F and 85°F. [02 NCAC 52J .0302(a)(4)] - In Compliance
4. The animal containment units are equipped with operable air-conditioning, forced-air cooling and heating or other temperature control mechanisms adequately utilized. [02 NCAC 52J .0302(a)(4)] - In Compliance
5. Animals in the same primary enclosure are of the same species. [02 NCAC 52J .0302(b)] - In Compliance
6. Puppies or kittens less than 4 months of age may not be transported in the same primary enclosures with adults other than their dams. [02 NCAC 52J .0302(b)] - In Compliance
7. Primary enclosures for transport large enough for each animal to turn about freely, and to easily stand, sit or lie down in a natural position. [02 NCAC 52J .0302(c)] - In Compliance
8. Primary enclosures for transport secured to the vehicle to prevent sliding or tipping of the enclosure during transit. [02 NCAC 52J .0302(c)] - In Compliance
9. Special provisions provided when required during transport adequate for the animal to maintain its normal body temperature. [02 NCAC 52J .0302(d)] - In Compliance
10. Special provisions when provided are documented in animal's record. [02 NCAC 52J .0302(d)] - In Compliance
11. Animals may not be placed in primary enclosure over other animals in transit unless such enclosures is constructed so as to prevent animal excreta from entering lower enclosures. [02 NCAC 52J .0302(e)] - In Compliance
12. All primary enclosures for transport sanitized between use for shipments. [02 NCAC 52J .0302(f)] - In Compliance

02 NCAC 52J .0303 FOOD AND WATER REQUIREMENTS

1. If animals are transported for more than 6 hours:
 - o The vehicles stop at least once every 6 hours for a period of 1 hour. During the 1-hour stop, potable water continuously provided for dogs and cats. [02 NCAC 52J .0303(1)] - Not Applicable
 - o During the 1 hour stop dogs removed from enclosure and provided exercise if safe to do so. Any exclusion of an animal from this requirement is documented. [02 NCAC 52J .0303(1)] - Not Applicable
 - o Adult dogs and cats adequately fed within 24-hours of any time during the transport. [02 NCAC 52J .0303(2)] - Not Applicable
 - o Puppies and kittens less than 6 months of age fed every 6 hours. [02 NCAC 52J .0303(2)] - Not Applicable
 - o The primary enclosure used to transport cats equipped with properly cleaned litter box and clean litter. [02 NCAC 52J .0303(3)] - Not Applicable

02 NCAC 52J .0304 CARE IN TRANSIT

1. The attendant or driver inspects animals with adequate frequency to determine the animals' comfort, health, and safety and to obtain or provide relief or emergency care when necessary. [02 NCAC 52J .0304(a)] - Not Applicable
2. For transports lasting more than 6 hours documentation includes start and end times of transport; species and identification of transported animals; visible injury, illness or medical conditions; care provided including stops, exercise, watering, feeding and veterinary care. [02 NCAC 52J .0304(b)] - Not Applicable
3. Documentation maintained by facility for minimum of 1 year after transport. [02 NCAC 52J .0304(b)] - Not Applicable

NCGS §19A-32.1 MINIMUM HOLDING PERIOD

1. All animals held for a minimum holding period (MHP) of 72 hours. [NCGS§19A-32.1(a)] - In Compliance

2. Animal made available for adoption unless exempted by NCGS§19A-32.1(b)(1-3). [NCGS§19A-32.1(a)] - In Compliance
3. Seriously ill or injured animal euthanized before the expiration of the MHP: a) Determination in writing from the animal shelter manager; and b) the writing includes the reason for the determination. [NCGS§19A-32.1(b)(2)] - In Compliance
4. Viewing for lost pet: a) entitled to view every animal; and b) at least 4 hours a day, 3 days a week. [NCGS§19A-32.1(c)] - In Compliance
5. Reasonable arrangements allow pet owners to determine whether their lost pets are amongst animals in restricted areas. [NCGS§19A-32.1(c)] - In Compliance
6. Fostering during MHP: at least 1 photograph displayed in a conspicuous location. [NCGS§19A-32.1(d)] - In Compliance
7. Foster care policies. [NCGS§19A-32.1(e)] - In Compliance
8. Owner surrendered and not reclaimed during the MHP: a) be returned to the owner, b) adopted, or c) euthanized. [NCGS§19A-32.1(f)] - In Compliance
9. Owner surrender disposed of before the expiration of the MHP: a) proof of ownership provided; and b) signed written consent to the disposition before the expiration of the MHP. [NCGS§19A-32.1(g)] - In Compliance
10. Owner surrender: statement in writing whether the dog has bitten any individual within the previous 10 days. [NCGS§19A-32.1(h)] - In Compliance
11. The person to whom an animal is released presents a valid form of government-issued photographic identification. [NCGS§19A-32.1(i)] - In Compliance
12. Documentation of the name of the person, the type of ID and the ID number. [NCGS§19A-32.1(i)] - In Compliance
13. Record of all animals impounded at the shelter maintained. [NCGS§19A-32.1(j)] - In Compliance
14. Retain the animal records for at least 3 years from the date of impoundment. [NCGS§19A-32.1(j)] - In Compliance
15. Animal records available for inspection during regular inspection or upon request of AWS. [NCGS§19A-32.1(j)] - In Compliance
16. Records contain at a minimum date of impoundment, length of impoundment, disposition of each animal, name and address of person to whom the animal was released, any institution that person represents, and the identifying information; other information required by rules adopted by the Bd of Ag [NCGS§19A-32.1(j)(1-4)] - In Compliance

General Comments:

We performed an inspection today to determine if the shelter could be registered as an animal shelter by the AWS. The owner submitted an application for registration and therefore needed to be inspected. Previously, the owner's animal shelter registration application had been denied a license due to a failure to comply with the NC Animal Welfare Act and its rules. The violations and inadequacies of compliance have been cited in the 5 previous Disapproved FCIs. Those FCIs occurred on 2/22/22, 3/18/22, 4/20/22, 7/5/22 and 1/5/2023. The FCI today found that the majority of the violations and areas of inadequacies cited in the previous FCIs remain as corrective actions have been inadequate, incomplete, or the violations have not addressed at all. Today's FCI documented a total of 53 canines were on the premises. At least fourteen of these animals have been taken into the shelter since January 2023 with the most recent dog arriving on June 14, 2023. Due to the large numbers, of severity, and repetitive nature of these violations, this FCI is Disapproved.

Inspection Result:

Disapproved

Inspector's Signature	Date
joe blomquist	06/27/2023
Facility Representative's Signature	Date
Discussed with Della Fitz-gerald	06/27/2023