



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 27, 2024

American Pet Resort, LLC
Owner of
Pet Paradise Mooresville
1551 Atlantic Blvd Suite 200
Jacksonville, FL 32207
ATTN: Lauren Danilchenko
Assistant General Counsel
and via email
ldanilchenko@petparadise.com

NOTICE of CIVIL PENALTY and NOTICE of WARNING

Re: CIVIL PENALTY ASSESSMENT for VIOLATIONS of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTIONS .0102(6); .0204(a); and .0207(a) and (d)(3) and (8) and NOTICE of WARNING for VIOLATIONS of 02 NCAC 52J .0102(1); .0202(b)(2); and .0210(a)(3).

AWS-CP-2024-21

Facility: Pet Paradise Mooresville
License Number: 11378

Dear Ms. Danilchenko:

Pursuant to NCGS § 19A-40, I am issuing this notice that American Pet Resort, LLC as owner and operator of Pet Paradise Mooresville (“the kennel”) is hereby assessed a civil penalty of \$1,300.00 as provided in the enclosed Notice of Violation.

With regard to the civil penalty, within 60 days from the date of this letter, 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 or email at Patricia.Norris@ncagr.gov. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

Additional information about your options is provided below:

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by NCGS § 150B-23. The petition must be filed with the N.C. Office of Administrative Hearings (“OAH”) within 60 days from the date of this document. Additionally, the petition must be accompanied by a filing fee of twenty dollars (\$20.00). Payment can be made by cash, money order, certified check or check drawn on an attorney’s trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000.

You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Jonathan Lanier
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you. Your attention to this matter is appreciated.

Sincerely,

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

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

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

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

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

IN THE MATTER OF)
)
AMERICAN PET RESORT, LLC)
)
OWNER OF)
)
PET PARADISE MOORESVILLE)
)
)
)
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)

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, Pet Paradise Mooresville (“the kennel”) owned and operated by American Pet Resort, LLC was a boarding kennel that was licensed with AWS as a boarding kennel pursuant to NCGS § 19A-28.
2. On September 10, 2024, AWS received a complaint alleging that a dog named Haily broke her front leg while boarding at the kennel on August 15, 2024. Based on this information, AWS opened an investigation. The investigation centered on possible violation(s) of the N.C. Animal Welfare Act (“AWA”) as these statutes and associated regulations are the extent of the jurisdiction of AWS.
3. On September 11, 2024, AWS Animal Health Technician Shore (“Inspector Shore”) conducted a site visit and Facility Compliance Inspection (“FCI”) at the kennel. The following information was obtained during this site visit and FCI:
 - a. observation of enclosure where Haily was housed showed it to be the typical Mason brand enclosure which is commonly used in boarding kennels. The enclosure was in good repair and the opening where her leg was caught was part of the normal structure of the enclosure;
 - b. in violation of 02 NCAC 52J .0102(1), the kennel failed to consistently obtain the required information for the entry and release of animals;
 - c. in violation of 02 NCAC 52J .0102(6), the kennel failed to report the deaths of 2 dogs to AWS within 48 hours of the deaths since the February 15, 2024 FCI;
 - d. in violation of 02 NCAC 52J .0202(b)(2), the kennel failed to clean and/or change air vents and/or filters as often as necessary to minimize buildup of debris, dust and biological material and/or as often as necessary to prevent inhibition or restriction of air flow;
 - e. in violation of 02 NCAC 52J .0204(a), the kennel failed to maintain the surfaces of the primary enclosures so that they were impervious to moisture as evidenced by the damaged window ledge in the cat room and the numerous beds with damaged corners, holes in the

- fabric and/or damaged, worn fabric. This violation was previously cited during the February 15, 2024 FCI;
- f. in violation of 02 NCAC 52J .0207(a), the kennel failed to properly clean the primary enclosures a minimum of two times per day as evidenced by the accumulation of fecal matter and biological debris in the enclosures. The kennel staff relayed that they had deliberately reduced the cleaning of the enclosures from twice daily to once weekly or after an animal leaves because of the increased number of boarding animals being housed at the kennel;
 - g. in violation of 02 NCAC 52J .0207(d)(3), the kennel failed to adequately sanitize the turf in the outdoor enclosures as evidenced by the buildup of hair and other biological waste;
 - h. in violation of 02 NCAC 52J .0207(d)(8), the kennel failed to keep the fans in the kennel clean of accumulated debris, dust and biological material;
 - i. in violation of 02 NCAC 52J .0210(a)(3), the kennel has failed to follow the kennel's Program of Veterinary Care ("PVC") as the PVC states that "solid waste is removed ASAP" and "all enclosures are cleaned at least twice daily;"
 - j. the FCI was marked as Disapproved due to the lack of cleaning and sanitation and the willful disregard to comply with the requirements of 02 NCAC 52J .0207.

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 this investigation, AWS concludes that the kennel violated the following provisions:

02 NCAC 52J .0102(1) for failure to consistently obtain the required information for the entry and release of animals as noted on September 11, 2024

02 NCAC 52J .0102(6) for failure to report the deaths of 2 dogs to AWS within 48 hours of the deaths at the kennel since the February 15, 2024 FCI as noted on September 11, 2024

02 NCAC 52J .0202(b)(2) for failure to provide adequate air flow to minimize odors as noted on September 11, 2024

02 NCAC 52J .0204(a) for failure to maintain the surfaces of the primary enclosures so that they were impervious to moisture as observed on September 11, 2024. This violation was previously cited during the February 15, 2024 FCI

02 NCAC 52J .0207(a) for failure to properly clean the primary enclosures a minimum of two times per day as noted on September 11, 2024. This violation was deemed to be a willful violation as the kennel had decided to reduce the cleaning to only once a week or after a dog left.

02 NCAC 52J .0207(d)(3) for failure to properly sanitize the turf in the outdoor enclosures as noted on September 11, 2024

02 NCAC 52J .0207(d)(8) for failure to keep the fans in the kennel clean of accumulated debris, dust and biological material as noted on September 11, 2024

02 NCAC 52J .0210(a)(3) for failure to follow the kennel's Program of Veterinary Care

CIVIL PENALTY

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.

Accordingly, American Pet Resort, LLC, as owner and operator of Pet Paradise Mooresville, is hereby assessed a civil penalty for the following violations:

\$200.00 for 2 violations (\$100.00 per violation) of 02 NCAC 52J .0102(6) for failure to report the deaths of 2 dogs to AWS within 48 hours of the deaths at the kennel since the February 15, 2024 FCI as noted on September 11, 2024

\$200.00 for violation of 02 NCAC 52J .0204(a) for failure to maintain the surfaces of the primary enclosures so that they were impervious to moisture as observed on September 11, 2024. This violation was previously cited during the February 15, 2024 FCI

\$500.00 for willful violation of 02 NCAC 52J .0207(a) for failure to properly clean the primary enclosures a minimum of two times per day as noted on September 11, 2024

\$200.00 for violation of 02 NCAC 52J .0207(d)(3) for failure to properly sanitize the turf in the outdoor enclosures as noted on September 11, 2024

\$200.00 for violation of 02 NCAC 52J .0207(d)(8) for failure to keep the fans in the kennel clean of accumulated debris, dust and biological material as noted on September 11, 2024

\$1,300.00 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.

NOTICE of WARNING

As to the remaining violations of 02 NCAC 52J .0102(1); .0202(b)(2); and .0210(a)(3), this Warning Letter serves as written notice indicating in which respects the kennel may have violated the NC Animal Welfare Act and the rules issued pursuant thereto.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's registration pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

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

September 27, 2024

Date



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

Appendix

REFERENCED LAWS AND REGULATIONS

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

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

§ 19A-30. Refusal, suspension or revocation of certificate or license.

The Director may refuse to issue or renew or may suspend or revoke a certificate of registration for any animal shelter or a license for any public auction, kennel, pet shop, or dealer, if after an impartial investigation as provided in this Article he determines that any one or more of the following grounds apply:

- (1) Material misstatement in the application for the original certificate of registration or license or in the application for any renewal under this Article;
- (2) Willful disregard or violation of this Article or any rules issued pursuant thereto;
- (3) Failure to provide adequate housing facilities and/or primary enclosures for the purposes of this Article, or if the feeding, watering, sanitizing and housing practices at the animal shelter, public auction, pet shop, or kennel are not consistent with the intent of this Article or the rules adopted under this Article;
- (4) Allowing one's license under this Article to be used by an unlicensed person;
- (5) Conviction of any crime an essential element of which is misstatement, fraud, or dishonesty, or conviction of any felony;
- (6) Making substantial misrepresentations or false promises of a character likely to influence, persuade, or induce in connection with the business of a public auction, commercial kennel, pet shop, or dealer;
- (7) Pursuing a continued course of misrepresentation of or making false promises through advertising, salesmen, agents, or otherwise in connection with the business to be licensed;
- (8) Failure to possess the necessary qualifications or to meet the requirements of this Article for the issuance or holding of a certificate of registration or license.

The Director shall, before refusing to issue or renew and before suspension or revocation of a certificate of registration or a license, give to the applicant or holder thereof a written notice containing a statement indicating in what respects the applicant or holder has failed to satisfy the requirements for the holding of a certificate of registration or a license. If a certificate of registration or a license is suspended or revoked under the provisions hereof, the holder shall have five days from such suspension or revocation to surrender all certificates of registration or licenses issued thereunder to the Director or his authorized representative.

A person to whom a certificate of registration or a license is denied, suspended, or revoked by the Director may contest the action by filing a petition under G.S. 150B-23 within five days after the denial, suspension, or revocation.

Any licensee whose license is revoked under the provisions of this Article shall not be eligible to apply for a new license hereunder until one year has elapsed from the date of the order revoking said license or if an appeal is taken from said order of revocation, one year from the date of the order or final

judgment sustaining said revocation. Any person who has been an officer, agent, or employee of a licensee whose license has been revoked or suspended and who is responsible for or participated in the violation upon which the order of suspension or revocation was based, shall not be licensed within the period during which the order of suspension or revocation is in effect.

§ 19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

02 NCAC 52J .0102 RECORDS; BOARDING KENNELS

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

- (1) name and address of owner or person responsible for animal, the date of entry and signature of the person leaving the animal; and the date of release and signature and address of individual to whom animal is released;
- (6) in the event of either an animal death or escape, the licensee shall notify the Animal Welfare Section within 48 hours.

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

02 NCAC 52J .0202 INDOOR FACILITIES

(b) Ventilation of indoor facilities:

- (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

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 .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.

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 .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:

- (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).
- (8) fans, including floor fans, ceiling fans, wall fans, vent fans, etc. shall be kept clean of accumulated debris, dust and biological material.

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 .0210 VETERINARY CARE

(a) A written program of veterinary care ('PVC') to include disease control and prevention, vaccination, euthanasia (animal shelters only), disposition of diseased, ill, injured, infirm or deformed animals, and provision of adequate routine and emergency veterinary care shall be established with the assistance of a licensed veterinarian by any person who is required to be licensed or registered under the Animal Welfare Act, Article 3 of Chapter 19A of the General Statutes. The following is required of each PVC:

- (3) The facility shall implement and follow the PVC; and

History Note: Authority G.S. 19A-24; Eff. April 1, 1984; Amended Eff. March 23, 2009; January 1, 2005; Readopted Eff. September 1, 2022.