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March 2, 2023

Sheriff Johnny Barnes
Washington County Sheriff's Office
P. O. Box 969
Plymouth, NC 27962

NOTICE of WARNING and NOTICE of VIOLATION

Re: Violations of Title 02 N.C. Administrative Code ("NCAC") Chapter 52J, Sections 0201(d)(1), (f), (h) and (q); .0202(b)(1) – (3); .0203(a)(1) and (2); .0204(a), (c) and (g); and .0207(d)(8) and (f).

AWS-WL-2023-6

**Animal Shelter: Washington County Animal Shelter
Registration Number: 107**

Dear Sheriff Barnes:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N.C. Department of Agriculture and Consumer Services ("NCDA&CS") conducted facility compliance inspections ("FCI") of the Washington County Animal Shelter (the "shelter") on January 3, 2023, and February 21, 2023. Due to the number, severity, and repetitive nature of the violations of the N.C. Animal Welfare Act ("AWA") and its associated regulations, these FCI reports were noted as "Disapproved."

During the February 21, 2023 FCI, the following was noted:

- 1) in violation of 02 NCAC 52J .0201(d)(1), the bedding was not stored in cabinets or sealed containers to adequately protect such supplies against infestation or contamination by vermin and insects;
- 2) in violation of 02 NCAC 52J .0201(f), a washroom, basin or sink was not provided to maintain cleanliness among the animal caretakers, animals, and animal food and water receptacles as the washbasin for employee use was disconnected;
- 3) in violation of 02 NCAC 52J .0201(h), a separate 5-foot-tall perimeter fence is required if any animal has unsupervised access to an outdoor primary enclosure. The gates to this perimeter fence require repair in order that the perimeter fence to be complete;
- 4) in violation of 02 NCAC 52J .0201(q), the shelter does not have a functional carbon monoxide alarm;
- 5) in violation of 02 NCAC 52J .0202(b)(1), the shelter is not adequately ventilated to provide fresh air;

- 6) in violation of 02 NCAC 52J .0202(b)(2), the air vents and/or air filters were not cleaned or changed as often as necessary to minimize buildup of debris, dust and biological material or often enough to prevent inhibition or restriction of air flow;
- 7) in violation of 02 NCAC 52J .0202(b)(3), the air flow was not adequate to minimize odors and moisture condensation;
- 8) in violation of 02 NCAC 52J .0203(a)(1) which requires the walkways of an outdoor facility to have groundcover constructed of sealed concrete or other surfaces that are impervious to moisture, the sidewalk crack needed to be repaired and sealed in order to be impervious to moisture
- 9) in violation of 02 NCAC 52J .0203(a)(2) the gravel in the outside area where dogs were allowed access was not maintained at a depth of at least 6 inches;
- 10) in violation of 02 NCAC 52J .0204(a) which requires that all surfaces within the primary enclosures to be impervious to moisture, the shelter floor and walls were not impervious to moisture and needed to be resealed;
- 11) in violation of 02 NCAC 52J .0204(c) and (g), the primary enclosure nearest the sink remained in disrepair and was not structurally sound or constructed to prevent the escape of the animal housed within;
- 12) in violation of 02 NCAC 52J .0207(d)(8) the fans were not kept clean of accumulated debris, dust and biological material; and
- 13) in violation of 02 NCAC 52J .0207(f) the shelter has failed to establish and maintain an effective program for the control of mammalian pests as rodent droppings were present throughout the shelter.

A review of January 3, 2023 FCI report shows that the shelter was cited for violations of 02 NCAC 52J .0201(d)(1), (f), and (h); .0202(b)(2) and (3); .0204(a) and (c); and .0207(d)(6) and (f). A timeline for implementation of corrective actions was requested to be submitted to AWS within 10 days of the January 3, 2023 FCI.

A review of the timeline supplied by the shelter's operator on January 11, 2023, noted that 2 carbon monoxide detectors would be installed before January 20, 2023. The email stated also stated that work orders would be placed for the repair the front gate, fence, washer and dryer and to have the exhaust fans installed. Estimates for replacing the fence and sealing the concrete would be obtained so that they could be submitted for the next fiscal budget.

A comparison of the timeline submitted on January 11, 2023, by the shelter administration to the results of the February 21, 2023, FCI showed that the only corrective action taken in the interim was the repair of the washing machine.

AWS received an email from a shelter administrator on February 24, 2023, stating that 2 carbon monoxide detectors had been purchased and would be installed shortly. He also stated that work orders had been put in to address the sink, washer/dryer hookup, and the Internet. He also wrote that estimates were being gathered for the fencing, gate, A/C units, exhaust fans and having the concrete sealed.

The FCI reports noted in this Notice of Warning have been made available to the shelter and are posted on the AWS website.


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

The animal shelter is hereby notified that an animal shelter certificate of registration may not be renewed if there is not an "Approved" rating for at least one FCI in the fiscal year preceding the renewal application submission. To date, there has not been an "Approved" rating for this shelter for the 2022-2023 fiscal year. Therefore, should the shelter fail to correct these violations and fail to fully comply with the AWA and its associated rules, and thereby achieve an Approved rating on a FCI in the immediate future, the shelter's animal shelter registration renewal application may be denied.

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 license pursuant to N.C. General Statute § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under N.C. General Statute § 19A-40.

Your immediate attention to this matter is appreciated.

Sincerely,



Patricia Norris, DVM, MS
Director of Animal Welfare Section
Veterinary Division

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

Appendix

REFERENCED STATUTES AND REGULATIONS

§ 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

(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;

(f) Hot and cold running, potable water must be available. Facilities such as a washroom, basin or sink shall be provided to maintain cleanliness among animal caretakers, animals, and animal food and water receptacles.

(h) A separate five-foot tall perimeter fence is required if any animal(s) has/have unsupervised access to an outdoor primary enclosure, common area, and/or exercise area. Supervision of animals is required for any animal(s) within any outdoor enclosure, common area, or exercise area without a separate five-foot tall perimeter fence.

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

*History Note: Authority G.S. 19A-24; 19A-30(3);
Eff. April 1, 1984;
Amended Eff. January 1, 2005;
Readopted Eff. October 1, 2022.*

02 NCAC 52J .0202 INDOOR FACILITIES

(b) Ventilation of indoor facilities:

- (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.

*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.

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.
- (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.
- (g) All primary enclosures and exercise areas shall be constructed to prevent the escape of animals.

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

- (d) Sanitation shall be as follows:
 - (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.