



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 12, 2023

Amber Brown  
Interim County Manager  
1014 N. Main Street  
Danbury, NC 27016

**NOTICE of CIVIL PENALTY and NOTICE of WARNING**

**Re: CIVIL PENALTY ASSESSMENT for VIOLATION of TITLE 02 N.C. ADMINISTRATIVE CODE (NCAC) CHAPTER 52J SECTION .0210(d) and NOTICE OF WARNING for VIOLATION of 02 NCAC 52J, .0101(4), (5) and (6); .0103; .0201(h); .0203(b)(2), (c), (e) and (f); .0204(b); .0209(8); and .0210(a)(3).**

**AWS-CP-2023-17**

**Facility: Stokes County Animal Shelter  
Registration Number 63**

Dear County Manager Brown:

Pursuant to NCGS § 19A-40, I am issuing this notice that Stokes County as the operator of the Stokes County Animal Shelter (“the shelter”) is hereby assessed a civil penalty of \$500.00 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.

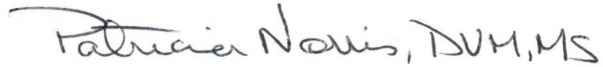
You must serve NCDA&CS by mailing a copy of the petition to:

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,



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 )  
 )  
STOKES COUNTY )  
 )  
OPERATOR of )  
 )  
STOKES COUNTY )  
 )  
ANIMAL SHELTER )

) NOTICE of VIOLATION and  
) ASSESSMENT of CIVIL PENALTY  
) for VIOLATION of TITLE 02 NC  
) ADMINISTRATIVE CODE (“NCAC”)  
) CHAPTER 52J SECTION .0210(d) and  
) NOTICE of WARNING for VIOLATIONS of  
) .0101(4), (5) and (6); .0103; .0201(h); .0203(b)(2),  
) (c), (e) and (f); .0204(b); .0209(8) and .0210(a)(3).  
)

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, the Stokes County Animal Shelter (“the shelter”), operated by Stokes County, was an animal shelter registered pursuant to NCGS §19A-26.
2. On August 17, 2023, AWS received a complaint alleging the shelter was improperly prescribing and administering prescription medications to shelter animals and was failing to provide potable water to the animals. 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 August 23, 2023, AWS Animal Health Technician Lindsey Harris (“Inspector Harris”) conducted the site visit portion of the investigation. The site visit revealed the following:
  - a. a review of the shelter records from July 1, 2023 through August 23, 2023 showed that the records for animals released to intermediary transporters did not contain the information required by 02 NCAC 52J .0101(4);
  - b. a review of the veterinary care records from July 1, 2023 through August 23, 2023 showed that the information required by 02 NCAC 52J .0101(5) was missing or inconsistently documented in the animals’ records. The proper documentation of veterinary care was discussed with the shelter staff during the July 26, 2023 Facility Compliance Inspection (“FCI”);
  - c. a review of the shelter records showed that Rooster (ID#2304854) had been prescribed an oral antibiotic on July 5, 2023. The shelter did not have a record of the administration of this medication to Rooster in violation of 02 NCAC 52J .0101(6);
  - d. Inspector Harris requested the medication administration records for Chester (ID#2304857), Sable (ID#2304921), and Ren (ID#2304922). The shelter staff could not provide the requested records in violation of 02 NCAC 52J .0103;
  - e. the shelter staff relayed to Inspector Harris that they were using an area on the left side of the



- building as an exercise area to allow groups of 2-3 dogs to play together unsupervised. This exercise area was not in compliance with the AWA rules and had not been inspected by AWS prior to animals being confined in the exercise area in violation of 02 NCAC 52J .0209(8);
- f. the exercise area is not surrounded by a separate 5-ft perimeter fence, therefore, allowing animals unsupervised access to the exercise area was in violation of 02 NCAC 52J .0201(h);
  - g. the groundcover of the exercise area was not sealed concrete or gravel maintained at a minimum depth of 6 inches in violation of 02 NCAC 52J .0203(b)(2);
  - h. the groundcover of the exercise area appeared to be sand or dust in violation of 02 NCAC 52J .0203(c);
  - i. the exercise area did not have protection from inclement weather and the sun sufficient to protect all animals simultaneously in violation of 02 NCAC 52J .0203(e);
  - j. the exercise area was not kept sanitary as evidenced by the excessive amount of waste that appeared to have been present for more than 24 hours in violation of 02 NCAC 52J .0203(f);
  - k. wooden railroad ties are present within the exercise area in violation of 02 NCAC 52J .0204(b);
  - l. a review of the veterinary care records showed that prescription medications such as antibiotics and sedatives were being prescribed and administered by a shelter employee who was not under the direct supervision of a NC licensed veterinarian in violation of 02 NCAC 52J .0210(d) which requires the shelter to provide adequate veterinary care in a timely manner; and
  - m. a review of the shelter's Program of Veterinary Care (PVC) showed that it stated that the shelter will take an ill or injured animal to the county veterinarian. Contrary to the shelter's PVC, ill animals were being provided with inadequate veterinary care by shelter staff in lieu of being taken to the county veterinarian or following a written treatment protocol prescribed by a licensed veterinarian in violation of 02 NCAC 52J .0210(a)(3).

## CONCLUSIONS

To the extent that the Findings of Fact contain Conclusions of Law, or that the Conclusions of Law are Findings of Fact, they should be so considered without regard to the given labels. Based on the findings of the AWS investigation, AWS concludes that the shelter has violated 02 NCAC 52J .0101(4), (5) and (6); .0103; .0201(h); .0203(b)(2), (c), (e) and (f); .0204(b); .0209(8); and .0210(a)(3) and(d).

AWS concludes that the shelter violated the following provisions:

02 NCAC 52J .0101(4) for failure to properly record the information for the intermediary transporters as noted on August 23, 2023

02 NCAC 52J .0101(5) for failure to properly document the provision of veterinary care for several animals as noted on August 23, 2023

02 NCAC 52J .0101(6) for failure to create records within 48 hours of the administration of medication as noted on August 23, 2023

02 NCAC 52J .0103 for failure to provide the required records for 3 animals available when requested on August 23, 2023

02 NCAC 52J .0201(h) for leaving animals unsupervised in the exercise area when a separate 5-ft perimeter fence was not present surrounding the exercise area as noted on August 23, 2023;

02 NCAC 52J .0203(b)(2) for the failure to maintain a minimum depth of 6 inches of gravel as a groundcover as noted on August 23, 2023

02 NCAC 52J .0203(c) for having sand or dust as the groundcover of the exercise area as noted on August 23, 2023

02 NCAC 52J .0203(e) for failure to provide sufficient protection from inclement weather and the sun for all occupants simultaneously in the exercise area as noted on August 23, 2023

02 NCAC 52J .0203(f) for failure to provide maintain the exercise area in a sanitary condition as noted on August 23, 2023

02 NCAC 52J .0204(b) for allowing wood within the animal's reach in the exercise area as noted on August 23, 2023

02 NCAC 52J .0209(8) for confining animals in an exercise area that had not previously inspected by AWS and was not in compliance with the AWA and its rules as noted on August 23, 2023

02 NCAC 52J .0210(a)(3) for failure to follow the shelter's written program of veterinary care as noted on August 23, 2023

02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to the shelter animals by inappropriately prescribing and administering prescription medication without an examination, prescription or written treatment protocol from a NC licensed veterinarian as noted on August 23, 2023

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.

Accordingly, Stokes County as the operator of the Stokes County Animal Shelter is hereby assessed a civil penalty for the following violations:

\$500.00 for violation of 02 NCAC 52J .0210(d) for failure to provide adequate veterinary care in a timely manner to the shelter animals by inappropriately prescribing and administering prescription medication without an examination, prescription or written treatment protocol from a NC licensed veterinarian as noted on August 23, 2023



\$500.00 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 registration 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 .0101(4), (5), and (6); .0103; .0201(h); 202(b)(2), (d)(5), (e) and (f); .0209(8); and .0210(a)(3), this Warning Letter serves as written notice indicating in which respects the shelter may have violated the NC Animal Welfare Act and the rules issued pursuant thereto.

AWS strongly recommends that the shelter develop and implement written protocols to avoid future violations of these rules.

Continued or future violation of these statutes or regulations will be considered a willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation may result in action against your facility's registration 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 12, 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:

- (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 .0103 INSPECTION OF RECORDS**

All operators of animal shelters, pet shops, boarding kennels, public auctions, and persons operating as dealers shall make all required records available to the Director or his or her authorized representative on request, during the business and cleaning hours listed on the license application and/or during an inspection of the facility or an investigation. The operator must be able to match each animal to its record upon request. Records shall be maintained for a period of one year after the animal is released from a boarding kennel or sold from a pet store or public auction. Animal shelters shall maintain records required by the Animal Welfare Act or this Subchapter for a period of three years after the disposition of the animal.



*History Note: Authority G.S. 19A-24; 19A-25; Eff. April 1, 1984; Amended Eff. January 1, 2005; April 1, 1985; Readopted Eff. September 1, 2022.*

**02 NCAC 52J .0201      GENERAL**

(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.

*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 .0203      OUTDOOR FACILITIES**

(b) Exercise areas of outdoor facilities:

- (1) shall have flooring or groundcover constructed of sealed concrete or other surfaces impervious to moisture; and/or
- (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

(c) Sand and organic materials such as mulch, pine straw, or other similar non-approved material shall not be used as ground cover in primary enclosures, common areas, exercise areas and/or walkways.

(e) Dogs and cats in outdoor areas shall be provided adequate protection from inclement weather and the Sun. This protection shall be sufficient to protect all animals simultaneously in the exercise area. If an animal cannot maintain its normal body temperature in an outdoor exercise area, the animal shall not be placed in an outside exercise area.

(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.

*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 .0209      CLASSIFICATION AND SEPARATION**

- (8) All animals shall be confined in primary enclosures or exercise areas. Primary enclosures and exercise areas shall be inspected by the Animal Welfare Section and in compliance with the rules of this Subchapter before an animal can be confined in the enclosure or area.

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

**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
- (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.*