

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: SEPTEMBER 12, 2016 AGENDA ITEM NUMBER: 15

SUBJECT: RESOLUTION RATIFYING AND AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, VETERINARY DIVISION, ANIMAL WELFARE SECTION IN SETTLEMENT OF A CIVIL PENALTY ASSESSMENT AGAINST THE FORSYTH COUNTY ANIMAL CONTROL/ANIMAL SHELTER

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

See attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Audrey Watts, Jr.* DATE: September 8, 2016
COUNTY MANAGER

**RESOLUTION RATIFYING AND AUTHORIZING EXECUTION OF AN
AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES, VETERINARY DIVISION, ANIMAL WELFARE
SECTION IN SETTLEMENT OF A CIVIL PENALTY ASSESSMENT AGAINST THE
FORSYTH COUNTY ANIMAL CONTROL/ANIMAL SHELTER**

WHEREAS, on April 18, 2016, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section assessed a civil penalty in the amount of \$5,200.00 against the Forsyth County Animal Control/Animal Shelter as a result of alleged violations of the N.C. Animal Welfare Act; and

WHEREAS, the Forsyth County Animal Control/Animal Shelter disputes certain aspects of the April 18, 2016 Civil Penalty Assessment; and

WHEREAS, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, has agreed to reduce the amount of the original civil penalty assessed against the Forsyth County Animal Control/Animal Shelter from \$5,200.00 to \$2,100.00, in compromise and settlement of disputes of certain aspects of the Civil Penalty Assessment and in consideration of the Shelter's efforts to correct any violations, update and improve procedures at the Shelter in compliance with the N.C. Animal Welfare Act, and to implement safeguards to prevent future violations;

NOW, THEREFORE, BE IT RESOLVED that the Forsyth County Board of Commissioners hereby ratifies and authorizes execution of the attached Agreement between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section and the Forsyth County Animal Control/Animal Shelter by the County Manager, on behalf of Forsyth County and its Shelter, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where appropriate, and approval as to form and legality by the Forsyth County Attorney.

Adopted this the 12th day of September 2016.

A G R E E M E N T

This agreement (the "Agreement") is made and entered into effective as of this 30th day of August 2016 by and between the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section (hereinafter referred to as either the "Department" or the "Animal Welfare Section"), and the Forsyth County, North Carolina Animal Services Shelter, located at 5570 Sturmer Park Circle, Winston-Salem, North Carolina 27105, an agency of Forsyth County, North Carolina (hereinafter referred to as the "Forsyth Animal Shelter" or the "Shelter").

R E C I T A L S

WHEREAS, on April 18, 2016, the Department assessed the Forsyth Animal Shelter a civil penalty in the amount of Five Thousand Two Hundred Dollars (\$5,200.00) as a result of the Department's discovery of evidence indicating that the Shelter had violated N.C. Gen. Stat. §19A-32.1(a), (b) (2) and (g), 02 N.C.A.C. 52J .0101(1-5), 02 N.C.A.C. 52J .0103 and 02 N.C.A.C. 52J .0210(c); and

WHEREAS, on April 18, 2016, the Department issued the Forsyth Animal Shelter a written Civil Penalty Assessment which, among other things, described in detail the evidence referred to in the preceding paragraph of this Agreement; and

WHEREAS, a true and correct copy of the April 18, 2016 written Civil Penalty Assessment is attached hereto as Exhibit I and is incorporated by reference in this Agreement; and

WHEREAS, the Forsyth Animal Shelter disputes certain aspects of the April 18, 2016 written Civil Penalty Assessment; and

WHEREAS, the Forsyth Animal Shelter has the right to contest the April 18, 2016 written Civil Penalty Assessment by filing a petition for a contested case hearing in the North Carolina Office of Administrative Hearings; and

WHEREAS, the parties recognize that litigating the April 18, 2016 written Civil Penalty Assessment would be expensive and time-consuming; and

WHEREAS, the Forsyth Animal Shelter and the Department desire to fully and finally compromise and settle this and all other disputes and controversies between them involving the Department's April 18, 2016 assessment of a civil penalty against the Forsyth Animal Shelter; and

WHEREAS, the Forsyth Animal Shelter and the Department desire to enter into such a compromise and settlement solely in order to avoid the burden and expense of litigation.

NOW THEREFORE, for and in consideration of, among other things, the promises contained herein, the representations, covenants and warranties contained herein, the obligations created hereby and the release(s) contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the Department and the Forsyth Animal Shelter agree as follows:

1. The Recitals set forth above in this Agreement are hereby incorporated into this Agreement by reference as if fully set forth herein.

2. On May 23, 2016, the Shelter produced documentation showing that Animal A329347 was in the care of a veterinary clinic during the majority of the time that other Shelter records initially indicated the animal was in the care of the Shelter. The basis for the violation cited in the April 18, 2016 civil penalty for this animal was that Shelter records produced at the time of the investigation indicated that this animal was known to be injured at the time of intake, no documentation of administration of veterinary care could be found and there was no recollection or indication from the Shelter staff that the animal had been taken to a veterinary clinic. Since the documentation produced by the Shelter on May 23, 2016 indicates that this animal did receive veterinary care, the Department is waiving this violation and associated \$1,000.00 portion of the civil penalty.

3. The Shelter voluntarily agreed to participate in a Program Review. The Shelter has implemented or is in the process of implementing the suggestions and recommendations generated by the Program Review.

4. The Shelter dedicated a significant amount of resources to improve the record keeping system and animal documentation at the shelter. In addition, the Shelter has implemented an internal audit program to assess continued compliance with record keeping requirements.

5. On August 17, 2016, the Department conducted a follow-up site visit. At this time, Shelter staff was able to produce complete animal records for 13 randomly selected animals. The documentation for these animals met the requirements of the N.C. Animal Welfare Act and the regulations promulgated thereunder. In addition, the staff was able to generate all reports requested by Department staff personnel.

6. In consideration of the efforts of the Shelter to correct all violations, to update and improve procedures at the Shelter relative to compliance with the NC Animal Welfare Act and to

implement safeguards to prevent future violations, the Department will lower the civil penalty that was assessed on April 19, 2016 to Two Thousand One Hundred Dollars (\$2,100.00).

7. By no later than September 30, 2016 the Forsyth Animal Shelter shall pay the Department the sum of Two Thousand Dollars One Hundred Dollars (\$2,100.00).

8. Upon its timely receipt from Forsyth Animal Shelter of the sum of \$2,100.00, as provided in paragraph 7 of this Agreement above, and upon the Forsyth Animal Shelter's full compliance with the other terms of this Agreement, the Department shall waive the remaining civil penalty assessment of Two Thousand One Hundred Dollars (\$2,100.00).

9. The persons signing this Agreement below represent and warrant that they have full authority and representative capacity to execute this Agreement in the capacities indicated below, and that this Agreement constitutes the valid and binding obligations of all parties.

10. The parties agree to act in good faith in the implementation of this Agreement.

11. The parties agree to bear their own attorneys' fees and costs associated with this Agreement and with the matters referred to in this Agreement.

12. The parties acknowledge that this Agreement contains the entire agreement between them regarding the matters set forth and described in it, and that it supersedes all previous negotiations, discussions and understandings between them regarding such matters.

13. The terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto.

14. The parties acknowledge and agree that any and all disputes arising out of or under this Agreement, whether sounding in contract, tort or otherwise and including, among all others, the validity, construction, interpretation and enforcement of this Agreement, shall be governed by North Carolina law. Despite the foregoing, the parties further acknowledge and agree that this Agreement shall not be interpreted in favor of or against any party based upon which party drafted or participated in drafting this Agreement.

15. If any of the provisions of this Agreement are later determined to be invalid or unenforceable by a court of competent jurisdiction, the provisions found to be invalid or unenforceable shall be treated as being severable from the other provisions of this Agreement and this Agreement shall be construed and enforced as if any such invalid or unenforceable provision(s) had not been included in the Agreement.

16. This Agreement shall be binding in perpetuity upon and shall inure to the benefit of the parties, their agents, officers, employees, successors, assigns, heirs, executors and administrators.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and signed as of the day and year indicated by their signatures below:

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

By: _____

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

Date: _____

THE FORSYTH COUNTY, NORTH CAROLINA
ANIMAL SERVICES SHELTER

By: _____

J. Dudley Watts, Jr
County Manager, Forsyth County, North Carolina

Date: _____

Exhibit 1

**(April 18, 2016 Written Notice of Civil Penalty
Assessment)**



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

April 18, 2016

J. Dudley Watts, Jr.
Forsyth County Manager
201 North Chestnut Street
Winston-Salem, NC 27101

NOTICE OF CIVIL PENALTY

Re: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS OF N. C. GENERAL STATUTE §19A-32.1(a), (b)(2) and (g) and TITLE 02 N. C. ADMINISTRATIVE CODE, CHAPTER 52J, SECTIONS .0101(1) – (5); .0103 and .0210(c).

AWS-CP-2016-4

Facility: Forsyth County Department of Animal Control Animal Shelter

Dear Mr. Watts:

Pursuant to N. C. General Statute § 19A-40 I am issuing this notice to you that the Forsyth County Department of Animal Control Animal Shelter is assessed a civil penalty of \$5,200.00 as provided in the enclosed Notice of Violations.

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 N. C. General Statute § 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 N.C. General Statute § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings ("OAH"). Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. 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:

Ms. Tina Hlabse
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, appearing to read "Patricia Norris, DVM, MS". The signature is written in a cursive style with a horizontal line extending to the left.

Patricia Norris, DVM MS
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, State Veterinarian
Tina Hlabse, General Counsel, NCDA&CS
Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher R. McLennan, Assistant 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

FORSYTH COUNTY DEPARTMENT OF
ANIMAL CONTROL ANIMAL SHELTER

) NOTICE OF VIOLATIONS
) ASSESSMENT OF CIVIL PENALTY
) FOR VIOLATIONS OF N. C. GENERAL
) STATUTE §19A-32.1(a) and (b)(2) and (g)
) 02 NCAC 52J .0101(1) - (5); .0103 and
) .0210(c).
)

Acting pursuant to N.C. Gen. Stat. § 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, Forsyth Department of Animal Control Animal Shelter ("the shelter") was an animal shelter, registered pursuant to N.C. General Statute §19A-26.
2. On March 17, 2016, AWS Animal Health Technician Lindsey Lloyd ("Inspector Lloyd") conducted a random facility inspection of the shelter. This inspection was marked as "Disapproved" due to multiple incomplete shelter records for the animals, inability of staff to match records to animals at the time of the facility inspection and euthanasia of 4 animals prior to the expiration of the minimum hold period of 72 hours without documentation of a serious illness or serious injury as required by N. C. General Statute §19A-32.1(b)(2) or proper owner surrender with written consent under §19A-32.1(g).
3. On the March 17, 2016 inspection, Inspector Lloyd gave the shelter 7 days in which to correct the record keeping/filing problem, i.e. ensure that complete records for an animal could be located and matched to that animal.
4. On March 28, 2016 Inspector Lloyd returned to the shelter with AWS Animal Health Technician Christie Shore ("Inspector Shore"). Inspectors Lloyd and Shore returned to the shelter on March 29, 2016 and on April 6, 2016. AWS Outreach Coordinator Joe Blomquist ("Coordinator Blomquist") was also at the shelter on March 29, 2016. Inspector Lloyd returned to the shelter again on April 7, 2016. While at the shelter on these dates, the Inspectors and Coordinator reviewed shelter records and interviewed shelter staff.
5. On March 29, 2016, Inspectors Lloyd and Shore met with a citizen who provided them with information and filed a complaint alleging modification of animal records by shelter staff, failure to provide veterinary care to a dog for several days, and failure to provide veterinary care for another dog and a kitten in which the outcome was that the animals were later found dead in their kennels. The citizen also provided information and filed complaints for matters that were not found to be under the jurisdiction of AWS.
6. On April 6, 2016 Inspectors Lloyd and Shore obtained veterinary medical records for some of the shelter animals from the attending veterinary clinics. On April 7, 2016 Inspector Lloyd obtained veterinary medical records from an additional attending veterinary clinic.

7. The facility inspection and records review detailed above and review of the information provided by the complaint revealed the following:

- a) Three cats with the identification numbers A329121, A329122 and A329123 were taken in by the shelter as strays on February 18, 2016. All 3 cats were euthanized on February 19, 2016. No documentation of serious illness or injury at the time of euthanasia could be found. When asked, shelter staff disclosed the reason for the early euthanasia was because the animals were "feral."
- ✓ b) A cat with the identification number A329340 was taken in by the shelter as a stray on February 27, 2016. The kennel card notes a wound on the front leg. The cat was euthanized on February 29, 2016. No evidence of veterinary care could be found. No documentation of justification for early euthanasia was provided.
- ✓ c) A cat with the identification number A329346 was taken in by the shelter as a stray on February 27, 2016. The kennel card indicates that this cat had an injured left front leg. The intake registry indicates "stray injured cat - basic care." The medical history record for this cat indicates instructions for veterinary care issued on February 29, 2016. The cat was euthanized on February 29, 2016. No documentation of serious illness or injury at the time of euthanasia could be found.
- ✓ d) A cat with the identification number A329535 was taken in by the shelter as an owner surrender on March 5, 2016 as noted in the kennel card and in the computer. The cat was euthanized on March 7, 2016. No written consent by the owner or other justification for the disposition of the animal before the expiration of the minimum holding period could be found.
- ✓ e) A dog named Carmen with the identification number A321751 was taken in by the shelter as a stray on October 30, 2015. A note was made in the computer on October 30, 2015 at 15:52 that "dog has a prolapsed uterus. fw." Another note was made into the computer on November 1, 2015 at 17:16 which stated: "Was told by a volunteer that this dog has a prlasp (sic) uterus. I sent a picture to Dr. Strickland asking him if the dog needed any medication the only thing he prescribed was tramadol if the dog was in pain (sic) gave her 1.5 tramadol, the dog is due out today 11/1/15 at 15:48 . nh." No documentation of any veterinary care being administered to this dog on October 30 or October 31, 2016 could be found. Veterinary care was not sought until late afternoon on November 1, 2016. There is no evidence that this veterinary care was sought due to daily observation by staff of the medical condition which had been present since intake.
- f) A kitten with the identification number A320629 was taken in by the shelter as a stray on October 16, 2015. The intake registry notes this kitten to be 1 month old and "sick." The medical history for this kitten notes on October 16, 2015: "Eyes possibly blind." The complainant notes that on October 18, 2015, she observed that the kitten was unable to eat the wet food in the kennel and was doing poorly. The complainant states she brought her concerns to the attention of the staff present at the shelter that day. An entry into the computer on October 19, 2015 at 10:52 notes "Cat is a foster, medical emergency. Cat can not (sic) eat on its own, 3-5 weeks old, sickly." The computer record notes on October 19, 2015 at 11:32 that the kitten died in the kennel. No evidence of any veterinary care being administered to this kitten could be found.
- g) A dog named Bear with identification number A121091 was owner surrendered to the shelter on February 19, 2016. The Intake Registry notes this dog is "elderly and has medical issues." The Activity Card for this dog notes "the dog is fourteen years old and cannot hardly walk - due to hip and leg issues." A memo entered in the computer on February 22, 2016 at 7:57 by Scott Bird notes: "Dog

displaying strange behavior. Unbalanced, can barely move, head tilted strange. Old. OK to euth this dog." A memo entered in the computer on February 22, 2016 at 16:12 noted: "Dog bit Monica Sparks at approx. 15:09 PM today. As per T. Jennings dogs (sic) head to be sent to Raliegh (sic) for testing." Shelter records indicate that the bite occurred during handling the dog in preparation for euthanasia. The decision was made not to continue with the euthanasia and send the remains for rabies testing but to place the dog in a 10 day quarantine. The complainant states that she observed this dog on February 28, 2016 not doing well, (urine in his water bowl, vomit/diarrhea in his kennel, severely lethargic or unable to move). She stated that she discussed her concerns with a staff member on that day. A memo entered into the computer on March 2, 2016 at 11:42 notes: "This dog died in the kennel. Happened sometime in the very early morning hours of 03.01.16. Staff found dog around 8:00AM dead in kennel." No evidence could be found of veterinary care being provided to this dog despite being barely able to walk at the time of intake and displaying significant neurological signs during the stay at the shelter.

h) A dog with the identification number A329347 was taken in by the shelter as a stray on February 28, 2016. A memo entered into the computer on February 29, 2016 at 16:18 notes: "This dog is a medical emergency. Dog hit by a car. Can not (sic) move, heavy breathing. Possible broken or fractured right hindlimb. Dog can not (sic) move. OK to euth this dog as a medica (sic) lemergency (sic). Dog is aggressive, staff could not scan animal. OK to euth dog." This animal was not euthanized until late afternoon (16:40) on February 29, 2016. No evidence of veterinary care being provided to this dog during the interim period could be found.

i) A dog with the identification number A329124 was taken in by the shelter as a stray on February 19, 2016. The dog was noted as "sick-emaciated dog" on the Intake Registry. This dog was euthanized on February 19, 2016. No determination, in writing, by the shelter manager, that the animal was seriously ill or injured to justify the euthanasia before the expiration of the minimum holding period could be found.

j) A dog with the identification number of A330368 was taken in by the shelter as a stray on March 17, 2016 according to staff interviews, medical records from the attending veterinary clinic and the activity card of the ACO who transported the dog. This dog was admitted directly to the attending veterinary clinic and assessed as being severely injured with spinal injuries and pelvic fractures. The veterinarian recommended euthanasia due to the severity of the injuries. The dog was transported to the shelter on March 18, 2016 and euthanized. No shelter record either computer generated or hand written could be located for this dog. No intake information or euthanasia information, except the DEA log entry, could be found for this dog. None of the information required by the 02 NCAC 52J Section .0101 could be located for this dog.

k) A litter of puppies with the identification numbers A328372, A328377, A328379, A328381, A328382, A328383, and A328384 have intake dates of February 10, 2016 on their kennel cards. According to shelter staff statements, these nursing puppies actually entered the shelter with their dam on February 2, 2016, not on February 10, 2016 as indicated in the shelter records. The shelter staff indicated that their procedure for litters of nursing animals was not to record the actual day of intake but to record the date on which their disposition had been decided. The dam had been confiscated due to a bite and was placed in a 10 day quarantine. The dam was euthanized on February 11, 2016 at the end of her quarantine period. The puppies were also euthanized on February 11, 2016. The puppies are noted on the kennel card as owner surrendered animals, yet no owner surrender form with a signature could be located. No Intake Registry sheet could be located for 6 of the 7 puppies. When asked by Inspector Shore for the Intake Registry sheets, the shelter staff produced one for puppy A328372 dated March 29, 2016, which is more than 6 weeks after the puppy had been euthanized.

✓) A review of shelter records for March 2016 revealed 53 animal records that were missing origination, animal description, location of the animal, disposition information, euthanasia information and/or record of veterinary care as required in 02 NCAC 52J .0101(1) – (5). The review of shelter records for February 2016 revealed 27 animal records with similar missing information.

✓m) Review of shelter records reveal that numerous animal records are missing required information such that compliance with N. C. General Statute §19A-32.1 could not be ascertained.

CONCLUSIONS

As a result of this investigation, the North Carolina Department of Agriculture and Consumer Services, Veterinary Division, Animal Welfare Section, finds that the shelter either by act or omission, violated the provisions of N. C. General Statutes §19A-32.1(a), (b)(2) and (g) and 02 North Carolina Administrative Code 52J .0101(1) - (5); .0103 and .0210(c).

Violation of N. C. General Statutes §19A-32.1(a) and (b)(2) occurred with animals A329121, A329122, A329123, A329340 and A329346.

Violation of N. C. General Statute §19A-32.1(g) occurred with animal A329535.

Violation of 02 North Carolina Administrative Code 52J .0101(1) - (5) occurred with A330368 and numerous animals as detailed above.

Violation of 02 North Carolina Administrative Code 52J .0103 occurred with numerous animals as detailed above.

✓ Violation of 02 North Carolina Administrative Code 52J .0210(c) occurred with animals A321751, A320629, A121091, and A329347. (e, f, g, h)

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

CIVIL PENALTIES

As required by N.C. Gen. Stat. § 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 Forsyth County Department of Animal Control Animal Shelter is assessed a civil penalty for the following violations:

- 1) \$500.00 for 5 violations of N. C. General Statute §19A-32.1(a) and (b)(2);
- 2) \$100.00 for violation of N. C. General Statute §19A-32.1(g);
- 3) \$500.00 for violation of 02 North Carolina Administrative Code 52J .0101(1) – (5);
- 4) \$100.00 for violation of 02 North Carolina Administrative Code 52J .0103; and
- 5) \$4,000.00 for 4 violations of 02 North Carolina Administrative Code 52J .0210(c)

\$5,200.00 TOTAL AMOUNT ASSESSED

April 18, 2016
Date

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

Appendix

RELEVANT LAWS AND REGULATIONS

§ 19A-32.1. Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.

(a) Except as otherwise provided in this section, all animals received by an animal shelter or by an agent of an animal shelter shall be held for a minimum holding period of 72 hours, or for any longer minimum period established by a board of county commissioners, prior to being euthanized or otherwise disposed of

(b) Before an animal may be euthanized or otherwise disposed of, it shall be made available for adoption under procedures that enable members of the public to inspect the animal, except in the following cases:

(1) The animal has been found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament.

(2) The animal is seriously ill or injured, in which case the animal may be euthanized before the expiration of the minimum holding period if the manager of the animal shelter determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination.

(g) An animal that is surrendered to an animal shelter by the animal's owner may be disposed of before the expiration of the minimum holding period in a manner authorized under subsection (f) of this section if the owner provides to the shelter (i) some proof of ownership of the animal and (ii) a signed written consent to the disposition of the animal before the expiration of the minimum holding period.

§ 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. (1995, c. 516, s. 6; 1998-215, s. 3.)

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;
- (2) description of animals including species, age, sex, breed, and color markings;
- (3) location of animal if not kept at the licensed or registered facility;
- (4) disposition of animals including name and address of person to whom animal is sold, traded or adopted and the date of such transaction; in the event of death, the record shall show the date, signs of illness, or cause of death if identified; if euthanized, the record shall show date and type of euthanasia; and
- (5) record of veterinary care including treatments, immunization and date, time, description of medication (including name and dosage), and initials of person administering any product or procedure.

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

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 authorized representative on request, during the business and cleaning hours listed on the license application. 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.

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

02 NCAC 52J .0210 VETERINARY CARE

(c) Each dog and cat shall be observed daily by the animal caretaker in charge, or by someone under his direct supervision. Sick or diseased, injured, lame, or blind dogs or cats shall be provided with veterinary care or be euthanized, provided that this shall not affect compliance with any state or local law requiring the holding, for a specified period, of animals suspected of being diseased. If euthanasia is performed at a certified facility, a list of personnel approved to perform euthanasia shall be maintained in a Policy and Procedure Manual as described in 02 NCAC 52J .0800. Diseased or deformed animals shall be sold or adopted only under the policy set forth in the "Program of Veterinary Care." Full written disclosure of the medical condition of the animal shall be provided to the new owner.

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