

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHESTERFIELD)	
STATE OF SOUTH CAROLINA, ex rel)	CASE NO. _____
ALAN WILSON, ATTORNEY)	
GENERAL)	
)	
Plaintiff,)	
)	CONSENT ORDER
v.)	
)	
)	
CHESTERFIELD COUNTY and SAM)	
PARKER, in his official capacity as)	
SHERIFF OF CHESTERFIELD)	
COUNTY,)	
)	
Defendants.)	
_____)	

This matter has come before this Court pursuant to a Consent order resolving this pending case. All parties consent to this Order which includes the following provisions.

This action is brought in the name of the State by the Attorney General of the State of South Carolina, Alan Wilson. The Defendant County of Chesterfield is a political subdivision of the State of South Carolina. The Defendant Sam Parker is named in his official capacity as Sheriff of Chesterfield County. The Office of the Sheriff manages the Defendant Chesterfield County Animal Shelter¹ under authorization from the County of Chesterfield.

This Court has jurisdiction over the parties and the causes of action asserted by Plaintiff. In particular, this Court has jurisdiction of this action pursuant to S.C. Code Ann. '47-3-440 (Supp. 2010). That statute authorizes the Attorney General to bring actions to enjoin violations of Article 7 of Title 47. That Article contains provisions related to animal euthanasia. This

¹ All references herein to the Chesterfield County Animal Shelter include any successors to the Shelter and its functions by whatever name designated.

Court also has jurisdiction of this case pursuant to the Declaratory Judgments Act (S.C. Code Ann. ' 15-53-10, et seq. (2005) and its equitable powers.

On or about March 4, 2011, employees of the Shelter failed to follow authorized euthanasia procedures when killing animals impounded at the Shelter. §47-3-420 (copy attached as Appendix A) None of the Defendants to this action authorized the employees to depart from the provisions of § 47-3-420, and no further failures to comply with §47-3-420 have occurred since the incidents on or about March 4, 2011.

The purpose of this Consent Order is, among other purposes, to rectify the March 4, 2011 shooting incident, referenced above, and to prevent future failures to comply with State law providing for the euthanasia of animals, which authorizes shooting as a means of euthanasia only in very narrow circumstances. To that end and to ensure the State and Attorney General that the Defendants comply in the future with all South Carolina laws regarding the establishment and management of animal shelters including those in S.C. Code Ann., Title 47, Articles 1 and 7, and in particular §47-3-420, the Defendants have agreed to consent to an order that would provide for inspections of the Shelter by the Humane Society, various reports and the other actions set forth below. Because the Shelter is operated by the Office of the Sheriff, and because the County of Chesterfield is authorized to establish animal shelters (§47-3-30), duties imposed upon the Shelter are imposed upon the other Defendants.

1. Inspections and Reports:

- a. Pursuant to S.C. Code §47-3-420(A)(1)(i), the Shelter is responsible for maintaining records regarding inventory, storage, and administration of controlled substances. Shelter shall submit to inspection by the South Carolina Department of Health and Environmental Control (“DHEC”) pursuant to S.C.

Code §47-3-420(A)(1)(i) at such times to be determined by DHEC. In particular, Defendants must promptly take any steps needed to ensure compliance with §47-3-420, including the prevention of euthanasia of animals by shooting, except in the limited circumstances permitted by State law.

b. The Shelter shall submit to random inspections by a representative(s) of the Humane Society for evaluation of its facilities and practices on a quarterly basis beginning October 1, 2011 and continuing through the quarter ending September 30, 2014. The inspections shall include, but are not limited to, any of the following matters:

- i. Facilities (structure, lighting, ventilation, ceilings, walls, floors, water drainage, storage)
- ii. Enclosures (structure and repair, space, provision of adequate shelter, waste disposal, odor)
- iii. Husbandry (adequate food and water, personnel)
- iv. Records (description of animal, origin/disposition, veterinary care, compiled numbers annually)

The Defendants shall request that the Humane Society note any inadequacies on reporting forms and that reports be timely provided by the Humane Society to the Sheriff and Shelter Manager. Defendants shall undertake reasonable efforts to address inadequacies noted by the Humane Society, specifically including but not limited to the use of record-keeping software or other approved record-keeping methodology. Shelter shall submit to the Humane Society an Annual Report using a form or format approved by the

Society. These Reports shall be submitted on or before January 15 each year beginning in 2012 with the final report due January 15, 2015. The annual report shall be prepared and signed by Shelter Manager who shall send copies to the Defendants. Reports and inspections may continue beyond these dates upon the agreement of the Humane Society and the Chesterfield County Sheriff in consultation with the other Defendants..

2. Notice of Consent Order.

Within thirty (30) days following the date of this Order, Defendants shall ensure that Shelter provides notice of this Order to all staff, employees, volunteers, and any other person acting on behalf or at the direction of Shelter. Within thirty (30) days of providing notice, Defendants shall direct that Shelter obtain confirmation of receipt from all persons required to receive this notice. The requirements of this Paragraph may be satisfied electronically or in writing. Shelter shall maintain all acknowledgements and shall, within five (5) working days of receiving a request from the Attorney General, produce a copy of all such acknowledgement forms. All staff, employees, volunteers, and other persons who receive notice of this Judgment are on notice that failure to comply with statutes and activities outlined in section III. of this Judgment may result in applicable criminal or civil penalties.

3. Recordkeeping

Shelter shall, for a period of three (3) years following the date of this Order, provide access and/or copies of records and reports generated pursuant to this Order to the Attorney General within fourteen (14) days of receiving a request

from the Attorney General. Shelter shall not represent or imply that failure of the Attorney General to take any action thereon constitutes acquiescence, approval or endorsement of any activity or practice by the Attorney General.

4. Miscellaneous Provisions

The Attorney General's consent to this Order does not constitute the approval of any past, present or future practices of the Defendants regarding the Shelter.

Those Practices are governed by the terms of this Order and State law.

This Judgment shall not bar the Attorney General or any other governmental entity from enforcing other laws or rules against Defendants or any employees thereof as to any of Shelter's practices, including those alleged in the Complaint.

Nothing contained herein shall be construed to waive any individual right of action by a consumer or a local, state, federal or other governmental entity

Nothing in this Judgment shall be interpreted to limit criminal liability of any individual.

THEREFORE, IT IS ORDERED THAT the Defendants strictly comply with §47-3-420, particularly as to the restrictions therein concerning the use of shooting of animals as a means of euthanasia, the provisions set forth above for Inspections, Notice, and Recordkeeping and the Miscellaneous Provisions above. Failure of the Defendants to comply with this Order may subject the Defendants to any and all penalties for contempt for failure to follow the terms of the Order and any other penalties provided by law. More specifically, any repeat incidents of animals being euthanized by shooting will require Defendants to report such incidents immediately to the Attorney General together with documentation supporting the fact that such shootings are authorized by section 47-3-420. If the Attorney General determines that such shooting of animals as a means of euthanizing was not authorized by Section 47-3-420, the

Attorney General may move immediately before the Court for contempt against any and all Defendants and may also proceed to prosecute as warranted. Furthermore, the Attorney General may seek contempt penalties upon information and belief that any provision of this Order is violated.

AND IT IS SO ORDERED

DATE

JUDGE, FOURTH JUDICIAL CIRCUIT

WE SO MOVE AND CONSENT AS TO THE FOREGOING CONSENT ORDER REGARDING THE CHESTERFIELD COUNTY ANIMAL SHELTER:

DATE

SAM PARKER, CHESTERFIELD COUNTY SHERIFF

DATE

COUNTY OF CHESTERFIELD

DATE

CHESTERFIELD COUNTY ANIMAL CONTROL

DATE

**ALAN WILSON
ATTORNEY GENERAL OF THE STATE OF
SOUTH CAROLINA BY, J. Emory Smith, Jr.
Assistant Deputy Attorney General**

APPENDIX A

S.C. Code Ann. § 47-3-420

(A) Only the following methods of euthanasia may be used to kill animals impounded or quarantined in animal shelters, and the procedure applicable to the method selected must be strictly followed:

(1) Barbituric acid derivatives:

(a) intravenous or intracardial injection of a lethal solution;

(b) intraperitoneal injection of lethal solution when location of an injection into the vein is difficult or impossible;

(c) oral ingestion of powdered barbituric acid derivatives in capsules mixed with food or by manual administration of a solution;

(d) intravenous injection of these solutions must be specifically injected according to the directions of the manufacturers for intravenous injections;

(e) intracardial injection of these solutions must only be administered if the animal has been tranquilized with an approved, humane substance and the animal, at the time of the intracardial injection, is anesthetized or comatose;

(f) the solutions may not be administered via intraperitoneal, intrathoracic, intrapulmonary, subcutaneous, intramuscular, intrarenal, intrasplenic, or intrathecal routes or in any other nonvascular injection route except as provided above;

(g) administration of injections must be done only by a licensed veterinarian or by a euthanasia technician or Department of Natural Resources employee, trained and certified for this purpose in a euthanasia training class taught by a licensed South Carolina veterinarian, which must

include training in tranquilizing animals. A person certified pursuant to this subitem must continue to maintain his proficiency by successfully completing a training course taught by a licensed South Carolina veterinarian every five years;

(h) all injections must be administered using an undamaged hypodermic needle of a size suitable for the size and species of animal;

(i) an animal shelter, governmental animal control agency, or the Department of Natural Resources (department) may obtain a barbituric acid derivative or tranquilizing agent by direct licensing. The animal shelter, governmental animal control agency, or department must apply for a Controlled Substance Registration Certificate from the federal Drug Enforcement Administration (DEA) and a State Controlled Substances Registration from the Department of Health and Environmental Control (DHEC). If an animal shelter, governmental animal control agency, or the department is issued a certificate by the DEA and a registration by DHEC pursuant to this subitem, the animal shelter, governmental animal control agency director or his designee, and the department's applicant are responsible, for maintaining their respective records regarding the inventory, storage, and administration of controlled substances. An animal shelter, governmental animal control agency and its certified euthanasia technician, and the department and its certified employees are subject to inspection and audit by DHEC and the DEA regarding the recordkeeping, inventory, storage, and administration of controlled substances used under authority of this article.

(2) Carbon monoxide gas:

(a) dogs and cats, except animals under sixteen weeks of age, may be killed by bottled carbon monoxide gas administered in a tightly enclosed chamber. The chamber must be equipped with:

(i) internal lighting and a window providing direct visual surveillance of the collapse and death of any animal within the chamber;

(ii) the gas concentration process must be adequate to achieve a carbon monoxide gas concentration throughout the chamber of at least six percent within five minutes after any animal is placed in the chamber. The chamber must have a functioning gas concentration gauge attached to the chamber and a strong airtight seal must be maintained around the door;

(iii) the unit shall include an exhaust fan connected by a gas-tight duct to the outdoors capable of completely evacuating the gas from the chamber before it is opened after each use, except that this provision does not apply to chambers located out-of-doors;

(iv) animals must be left in the chamber for a period of no less than fifteen minutes from the time the gas concentration throughout the chamber reaches six percent.

(b) no person may euthanize an animal by gas emitted from any engine exhaust system.

(c) in all instances where a carbon monoxide chamber is used:

(i) no incompatible or hostile animals, or animals of different species, may be placed in any chamber simultaneously;

(ii) every chamber must be thoroughly cleaned after the completion of each full cycle. No live animals may be placed in the chamber with dead animals;

(iii) all animals must be examined by a veterinarian or certified euthanasia technician to ensure they are dead upon removal from the chamber;

(iv) all chambers must be inspected quarterly by an independent, qualified technician who is thoroughly knowledgeable with the operation and maintenance of the particular euthanasia chamber being used;

(v) an operational guide and maintenance instructions must be displayed in the room with the euthanasia chamber.

(3) Shooting:

Shooting may be used as a means of euthanasia only in an emergency situation to prevent extreme suffering or in which the safety of people or other animal life is threatened or where it is considered necessary by the South Carolina Department of Natural Resources to eliminate or control the population of feral animals.

(B) In any of the previously listed methods, an animal may not be left unattended between the time euthanasia procedures have commenced and the time death occurs, and the animal's body may not be disposed of until death is confirmed by a certified euthanasia technician.

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CHESTERFIELD COUNTY and SAM)	
PARKER, in his official capacity as)	
SHERIFF OF CHESTERFIELD)	
COUNTY)	
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Defendants.)	
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The Plaintiff State of South Carolina ex rel Attorney General alleges the following as to the Defendants:

PARTIES

1. The State of South Carolina is a sovereign state of the United States. This action is brought in the name of the State by the Attorney General of the State of South Carolina, Alan Wilson.

2. The Defendant County of Chesterfield is a political subdivision of the State of South Carolina.

3. The Defendant Sam Parker is named in his official capacity as Sheriff of Chesterfield

County. The Office of the Sheriff manages the Chesterfield County Animal Shelter ¹under authorization from the County of Chesterfield.

4. The Shelter is an “animal shelter” as defined by S.C. Code Ann. '47-3-410 (Supp. 2010)

JURISDICTION

3. This Court has jurisdiction over the parties and the causes of action asserted by Plaintiff.

4. In particular, this Court has jurisdiction of this action pursuant to. '47-3-440 (Supp. 2010). That statute authorizes the Attorney General to bring actions to enjoin violations of Article 7 of Title 47. That Article contains provisions related to animal euthanasia.

5. This Court also has jurisdiction of this case pursuant to the Declaratory Judgments Act (S.C. Code Ann. '15-53-10, et seq. (2005) and its equitable powers.

VENUE

6. Venue is proper in the South Carolina Court of Common Pleas, Chesterfield County, Fourth Judicial Circuit.

CONDUCT ALLEGATIONS

7. On or about March 4, 2011, employees of the Shelter failed to follow authorized euthanasia procedures when killing animals impounded at the Shelter. §47-3-420. None of the Defendants to this action authorized the employees to depart from the provisions of § 47-3-420, and no further failures to comply with §47-3-420 have occurred since the incidents on or about March 4, 2011.

¹ All references herein to the Chesterfield County Animal Shelter include any successors to the Shelter and its functions by whatever name designated.

8. Pursuant to §47-3-440, the Attorney General of South Carolina may bring an action to enjoin a violation of § 47-3-420.

9. To ensure the State and the Attorney General that the Defendants will comply in the future with all South Carolina laws regarding the establishment and management of animal shelters including those in S.C. Code Ann., Title 47, Articles 1 and 7, and in particular §47-3-420, the Defendants have agreed to consent to a proposed order that would provide for inspections of the Shelter by the Humane Society, various reports and other relief.

FOR A FIRST CAUSE OF ACTION

10. Each of the above allegations is incorporated by reference into this cause of action.

11. The Defendants should be enjoined to comply with §47-3-420 because of the above described failure of Shelter employees to comply with that statute.

PRAYER FOR RELIEF

WHEREFORE, the State of South Carolina ex rel Attorney General Wilson, prays that the Court issue an Order granting the following relief:

- A. Enjoining the Defendants to comply with § 47-3-420.
- B. For such other relief as may be deemed appropriate by this Court.

ALAN WILSON
Attorney General

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(803) 734-3680
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ATTORNEYS FOR STATE EX REL
ATTORNEY GENERAL WILSON