



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

July 11, 2016

Mary Lisa Carmichael
All Wags Doggie Daycare and Boarding LLP
670 Griffith Road
Charlotte, North Carolina 28217

Notice of Warning and Notice of Deficiency

Re: Violation of Title 02 N. C. Administrative Code ("NCAC") Chapter 52J, Section .0202(a).

AWS-WL-2016-19

Boarding Kennel: All Wags Doggie Daycare and Boarding
License No. 10995

Dear Ms. Carmichael:

The Animal Welfare Section ("AWS") of the Veterinary Division of the N. C. Department of Agriculture and Consumer Services ("NCDA&CS") conducted a facility inspection on July 8, 2016. The temperature in the animal areas was 90.8 °F. Excessive temperatures in the animal areas were also noted during the facility inspection on July 31, 2015. You were directed at that inspection to rectify the situation immediately. During the March 21, 2016, the AWS Inspector reminded you of the need to provide a method of keeping the ambient temperature between 50°F and 85°F. You indicated during the March 21, 2016 inspection, that you would have the situation addressed "before the weather got hot."

Based on the results of this facility inspection, the boarding kennel violated 02 NCAC 52J .0202(a).

Pursuant to N. C. General Statute §19A-30, this Warning Letter, serves as written notice indicating in which respects the boarding kennel has failed to satisfy the requirements for the holding of a license as a boarding kennel.

The boarding kennel is directed to:

- 1) Immediately provide an ambient temperature that complies with the requirements of 02NCAC 52 J .0202(a); and
- 2) Within 7 days of receipt of this Warning Letter, the boarding kennel operator shall provide a written plan with a definitive timeline for a permanent solution for the facility to comply with the requirements of 02NCAC 52 J .0202(a).

Continued or future violation of these statutes or regulations will be considered to be a willful disregard or violation of the N. C. Animal Welfare Act and the rules issued pursuant thereto. Such willful disregard or violation of the N.C. Animal Welfare Act and the rules issued pursuant thereto may result in disciplinary 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

Enclosure

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

Appendix

RELEVANT LAWS 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. (1977, 2nd Sess., c. 1217, s. 11; 1987, c. 827, s. 67.)

§ 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 .0202 INDOOR FACILITIES

(a) Indoor housing facilities for dogs and cats shall be adequately heated and cooled when necessary to protect the dogs and cats from cold and excessive heat and provide for their health and comfort. The ambient temperature shall not be allowed to fall below 50 degrees F. or exceed 85 degrees F.

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