



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

February 20, 2023

Kathleen Brunson
Owner
Tailwaggers Kennel
6105 Lake Brandt Road
Greensboro, North Carolina 27455

NOTICE OF SUSPENSION OF BOARDING KENNEL LICENSE

Boarding Kennel: Tailwaggers Kennel
License No. 10333

AWS-SU-2023-1

Dear Ms. Brunson:

Pursuant to N.C. General Statute ("NCGS") § 19A-30(2), (3) and (8), the Animal Welfare Section ("AWS"), North Carolina Department of Agriculture and Consumer Services ("NCDA&CS"), provides you this notice that the boarding kennel license for Tailwaggers Kennel ("the kennel") is hereby **SUSPENDED** due to the kennel's willful violations of the North Carolina Animal Welfare Act and its associated rules as set forth in the attached documentation.

You have 5 days from your receipt of this Notice of Suspension to surrender your boarding kennel license (License Number 10333) to the Director of the AWS or their designated representative.

You may contest this decision by filing a petition under the North Carolina Administrative Procedure Act, NCGS § 150B-23, within five (5) days of your receipt of this Order of Suspension (see below, "Appeal").

Pursuant to NCGS § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement, you may contact me by telephone at (919) 707-3280. Settlement offers do not extend the 5-day deadline for filing of a contested case petition.

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 5 days from your receipt 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

If the violations which resulted in the suspension are of a continuing or repeating nature, NCDA&CS reserves the right to take additional enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Enclosures

cc: Michael Martin, DVM, State Veterinarian
Jon 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)	NOTICE of SUSPENSION
)	for VIOLATIONS of TITLE 02 N.C.
KATHLEEN BRUNSON)	ADMINISTRATIVE CODE ("NCAC"),
)	CHAPTER 52J, SECTIONS .0103;
OWNER of TAILWAGGERS)	.0201(a), (j) and (n); .0202(a)(2)
KENNEL)	and .0206(a)
)	

Acting pursuant to N.C. General Statute § 19A-30, 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, Tailwaggers Kennel ("the kennel") owned and operated by Kathleen Brunson, was a boarding kennel, licensed pursuant to N.C. General Statute ("N.C.G.S.") § 19A-28.
2. On December 21, 2022, AWS Animal Health Technician Christie Shore ("Inspector Shore") attempted to conduct a Facility Compliance Inspection ("FCI") of the kennel. Inspector Shore was unable to complete the FCI due to the aggressive, verbally abusive behavior of your son, the only kennel staff member present, and his demand that she leave the kennel immediately. The December 21, 2022, FCI report noted the following:
 - a. upon arrival Inspector Shore noted that the front door to the facility was open allowing the goats roaming in the front yard access to the building in violation of 02 NCAC 52J .0201(a) which requires facilities to restrict the entrance of other animals;
 - b. Inspector Shore was unable to review the kennel records as your son demanded she leave the kennel before she could complete the inspection. Therefore, the records of the animals were not available for review at the time of the FCI in violation of 02 NCAC 52J .0103;
 - c. the single dog boarding at the time of the FCI did not have access to any water in its enclosure in violation of 02 NCAC 52J .0206(a);
 - d. the temperature within the kennel was colder than the outside temperature and Inspector Shore believed it to be less than 50°F in violation of 02 NCAC 52J .0202(a)(2) as the outside temperature at that time was 37°F. Your son demanded that she leave the premises before Inspector Shore was able to confirm the temperature;
 - e. in violation of 02 NCAC 52J .0201(n), your son's repeated profane verbal attacks and ultimate demand that she leave the premises obstructed and prevented Inspector Shore from being able to perform the FCI and complete her official duties; and
 - f. your son's demand that Inspector Shore leave the kennel without inspecting the kennel violated 02 NCAC 52J .0201(j) which requires that all areas of a facility to be available to be inspected during normal business hours.

3. On December 21, and 22, 2022, Inspector Shore called your telephone number to speak to you. On the December 22, 2022, call, she left a message requesting that you return her call to discuss the situation. As of January 11, 2023, you failed to respond to those requests.
4. On January 11, 2023, AWS issued a Notice of Violations and Notice of Intent to Suspend Boarding Kennel License to the kennel. This Notice offered the kennel the opportunity to submit any information to AWS prior to AWS issuing a final decision as to the suspension/revocation that the kennel believed showed compliance with all lawful requirements for the retention of the boarding kennel's license. The kennel was given 5 days from the receipt of the January 11, 2023, notice to submit the information.
5. On January 15, 2023, you called Inspector Shore and acknowledged receipt of the Notice of Violations and Notice of Intent to Suspend Boarding Kennel License. You said that you would be responding to this Notice. As of February 20, 2023, you have failed to respond to the January 11, 2023 Notice.
6. The January 11, 2023, Notice of Violations and Notice of Intent to Suspend Boarding Kennel License and the December 21, 2022, FCI report referenced herein were previously made available to the kennel owner. The December 21, 2022, FCI report and can be found on the AWS website at: <http://www.ncagr.gov/vet/aws/>.

CONCLUSIONS

Based on the findings of this investigation, AWS concludes that the kennel, either by act or omission, violated the following provisions:

02 NCAC 52J .0103 for failing to make the required records available during the December 21, 2022, FCI;

02 NCAC 52J .0201(a) for failing to maintain housing to restrict the entrance of other animals on December 21, 2022;

02 NCAC 52J .0201(j) for failing to allow all areas of a facility to be available to be inspected during normal business hours on December 21, 2022;

02 NCAC 52J .0201(n) for obstruction and prevention of Inspector Shore from being able to perform the FCI and complete her official duties due to your son's repeated profane verbal attacks and ultimate demand that she leave the premises on December 21, 2022;

02 NCAC 52J .0202(a)(2) for failing to maintain the ambient temperature of the indoor facilities above 50 degrees F on December 21, 2022;

02 NCAC 52J .0206 for failing to provide continuous access to fresh water to the boarding animal on December 21, 2022;

In addition, AWS concludes that:

- a) The kennel willfully disregarded and violated the N.C. Animal Welfare Act ("AWA") and rules issued pursuant thereto as noted above;
- b) The kennel does not maintain watering consistent with the intent of the AWA and the rules issued pursuant thereto; and
- c) The kennel fails to possess the necessary qualifications and does not meet the requirements of the AWA and its rules issued pursuant thereto.

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

SUSPENSION OF BOARDING KENNEL LICENSE

Pursuant to N.C. General Statutes § 19A-30 (2), (3), and (8), and due to the severity and number of violations of the AWA and its associated regulations noted above, as well as the failure of the kennel to implement corrective actions for these violations, I am hereby suspending the boarding kennel license of the Tailwaggers Kennel.

This suspension shall remain in effect until such time as the kennel:

1. effectively implements corrective actions so that the kennel is in compliance with all AWA statutes and their associated rules (02 NCAC 52J Sections .0100 - .0800). AWS strongly recommends the development and implementation of written protocols to assist with compliance with these statutes and rules; and
2. submits to and passes an AWS facility inspection prior to boarding any animals at the facility. In order for the FCI to be conducted, there must be civil treatment of the AWS Inspector to allow for the discharge of her/his official duties while at the kennel.

After notification from the kennel of the completion of the requirements detailed above, AWS will review the status of the kennel. Should the kennel fail to comply with the requirements detailed above, additional action may be taken against the boarding kennel's license.

Pursuant to N.C. General Statute § 19A-28 no person shall operate a boarding kennel unless a license for such boarding kennel shall have been granted by the AWS Director.

Continued or future violations of the statutes or regulations referenced in this letter will be considered a willful disregard or violation of the NC 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 NCGS § 19A-30 and/or the assessment of a civil penalty of up to \$5,000.00 per violation under NCGS § 19A-40.

Date

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

Appendix

REFERENCED LAWS AND REGULATIONS

§ 19A-28. License required for public auction or boarding kennel.

No person shall operate a public auction or a boarding kennel unless a license to operate such establishment shall have been granted by the Director. Application for such license shall be made in the manner provided by the Director. The license period shall be the fiscal year and the license fee shall be seventy-five dollars (\$75.00) for each license period or part thereof beginning with the first day of the fiscal year.

§ 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 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 .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

(a) Housing facilities for dogs and cats shall be structurally sound and maintained in good repair to protect the animals from injury, contain the animals and restrict the entrance of other animals and people.

(j) All areas of a facility are subject to review or inspection by North Carolina Department of Agriculture and Consumer Services ('NCDA&CS') employees during normal business hours (8:00 a.m. through 5:30 p.m. Monday through Friday).

(n) Neither an applicant for a license or registration nor a licensee or registrant or any agent of a facility may abuse, harass, delay or obstruct any inspector or State official while inspectors or officials are attempting to discharge their official duties. For the purposes of this Rule, the following definitions apply:

- (1) "Abuse" means:
 - (A) Communicating a threat as defined by G.S. 14-277.1;
 - (B) Using profane, indecent or threatening language to any person over the telephone, annoying or harassing by repeated telephoning or making false statements over the telephone as defined by G.S. 14-196;
 - (C) Cyberstalking as defined by G.S. 14-196.3;
 - (D) Stalking as defined by G.S. 14-277.3A; and/or
 - (E) Disorderly conduct as defined by G.S. 14-288.4.
- (2) "Harass" means knowingly conduct, including oral, written or printed communication or transmission, telephone, cellular, or other wireless telephonic communication, facsimile transmission, page messages or transmissions, answering machine or voice mail messages or transmissions, electronic mail messages, or other computerized or electronic

transmissions directed at a specific person that torments, terrorizes or terrifies that person and that serves no legitimate purpose.

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

(a) Heating and cooling of indoor facilities:

- (1) indoor facilities for dogs and cats shall be adequately heated and cooled to protect the dogs and cats from cold and heat and provide for their health and comfort;
- (2) the ambient temperature shall not be allowed to fall below 50 degrees F or exceed 85 degrees F; and

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 .0206 WATERING

(a) Animals shall have continuous access to fresh, potable water, except as might otherwise be required to provide adequate veterinary care.

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