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Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

Christina L. Waggett
Assistant Commissioner
for Consumer Protection

Michael Martin, DVM
State Veterinarian

August 22, 2023

Louis and Marie Steele
Owners
Buckeye Kennels
734 Buckeye Access Road
Swannanoa, North Carolina 28778

NOTICE of UNLAWFUL OPERATION of a BOARDING KENNEL

Re: VIOLATION of N.C. GENERAL STATUTE (N.C.G.S.) § 19A-28.

Facility: Buckeye Kennels
License No. 10726 – Expired June 30, 2023

Dear Mr and Ms. Steele:

Pursuant to NCGS § 19A-28, no person shall operate a boarding kennel unless a license to operate such an establishment has been granted by the Director of the Animal Welfare Section (“AWS”), North Carolina Department of Agriculture and Consumer Services (“NCDA&CS”). On June 30, 2023, the AWS Boarding Kennel license for Buckeye Kennels (“the kennel”) (License No. 10726) expired.

Title 02 North Carolina Administrative Code (“NCAC”) Chapter 52J Section .0105(4) requires that renewal applications for boarding kennel licenses to be submitted yearly to the AWS office between April 1st and June 15th. On March 22, 2023, AWS send you a postcard reminding you of the need to submit a renewal application.

On the July 13, 2023 AWS mailed a Warning Letter to you stating that the kennel’s license had expired and that you had 10 days in which to submit a renewal application or to close the kennel as you were operating the boarding kennel without an AWS boarding kennel license. As on August 21, 2023, AWS has not received a boarding kennel license renewal application for the kennel.

On August 2, 2023, the AWS Inspector visited the kennel and noted that it was still operating as a boarding kennel. Therefore, this facility is operating in violation of the NC Animal Welfare Act and must immediately cease operation as a boarding kennel. The kennel is to return all animals to their owners within 72 hours of the receipt of this notice. If the owner(s) of the animals cannot be contacted within the 72-hour period, the animal(s) are to be moved to a properly licensed boarding kennel or registered animal shelter and the owners notified of the location of their animals.

Pursuant to NCGS § 19A-33, operation of a boarding kennel without a currently valid license is a Class 3 misdemeanor subject to a fine with each day of operation constituting a separate offense. In addition, pursuant to NCGS § 19A-40, violation of the NC Animal Welfare Act and the rules issued pursuant thereto may result in the assessment of a civil penalty of up to \$5,000.00 per violation. Your continued operation of a boarding kennel without a valid license will be considered a willful disregard or violation of the NC Animal Welfare Act and the rules issued pursuant thereto and may result in the denial of any future license applications in accordance with NCGS § 19A-30.

Your immediate attention to this matter is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Patricia Norris, DVM, MS". The signature is written in a cursive style.

Patricia Norris, DVM, MS
Director, Animal Welfare Section

Attachment: Referenced Laws and Regulations

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

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 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-33. Penalty for operation of pet shop, kennel or auction without license.

Operation of a pet shop, kennel, or public auction without a currently valid license shall constitute a Class 3 misdemeanor subject only to a penalty of not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00), and each day of operation shall constitute a separate offense. (1977, 2nd Sess., c. 1217, s. 14; 1993, c. 539, s. 315; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 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 .0105 LICENSES AND REGISTRATIONS

All operators of an animal shelter, pet shop, public auction, dealers, and boarding kennels shall have a valid license/registration.

- (4) Renewal applications for license or registration renewal shall be submitted yearly to the AWS office between April 1st and June 15th. Current application forms are located on the AWS website at <https://www.ncagr.gov/vet/aws>. The contents of the applications shall include the following:
 - (a) the name, physical address, phone number, email address and mailing address for the facility;
 - (b) the name, address, phone number, and email address for the owner of the facility;
 - (c) the hours and days the facility is open to the public;
 - (d) the cleaning hours of the facility;
 - (e) the number of enclosures and the maximum number of animals on site;
 - (f) the description of the facility's program of veterinary care ('PVC') including the disinfection protocols; vaccination protocols including rabies vaccination; the isolation of ill or injured animals; the sale/adoption/transfer of animals; and the provision of routine, emergency and after hours veterinary care;
 - (g) animal shelters shall have the PVC reviewed by a licensed veterinarian as described in 02 NCAC 52J .0210(a) and the application for the animal shelter registration shall contain the veterinarian's signature and contact information;
 - (h) statement of presence of an emergency disaster plan for the facility; and
 - (i) statement of agreement by the owner or authorized agent of the accuracy of the information contained in the application; of the willingness to comply with the rules of this Subchapter and to cooperate as required by law with the Animal Welfare Section inspections and investigations; acknowledgement of authority to execute the application; and agreement to notify the AWS of any significant change in the operation of the facility.

History Note: Authority G.S. 19A-24; Eff. September 1, 2022.