

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

OFFICE OF ANIMAL WELFARE

Statutory Authority: 16 Delaware Code, Sections 122(3)bb and 139
(16 Del.C. §§122(3)bb & 139)

PROPOSED

PUBLIC NOTICE

4502 Regulations for Certification of Animal Control Officers and Animal Cruelty Agents

On June 1, 2015, the Department of Health and Social Services, Division of Public Health, Office of Animal Welfare, plans to publish proposed regulations for Certification of Animal Control Officers and Animal Cruelty Agents and hold them out for public comment per Delaware law.

The purpose of the regulations is to establish minimum training requirements for the certification of animal control officers and animal cruelty agents working in the State of Delaware. They also establish procedures for documenting all complaints filed against officers/agents, and conducting investigation of complaints concerning violations of this chapter.

The regulation has been established to include:

- training and certification requirements for animal control officers and animal cruelty agents in Delaware;
- procedures for obtaining a certification from the Office of Animal Welfare;
- the training course approval process;
- continued education and recertification obligations;
- disciplinary sanctions; and
- complaint documentation and investigation procedures.

Any person who wishes to make written suggestions, testimony, briefs or other written materials concerning the proposed regulation should submit such comments by Tuesday, June 30, 2015 to:

Christina Motoyoshi, Deputy Director
Office of Animal Welfare
Delaware Division of Public Health
Carvel Building
1901 N. Dupont Hwy
New Castle, DE 19720
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4502 Regulations for Certification of Animal Control Officers and Animal Cruelty Agents

1.0 Authority and Purpose

- 1.1 These regulations are promulgated by the Delaware Department of Health and Social Services pursuant to 16 Del.C. §§122(3)bb and 139 pertaining to training and certification requirements for animal control constables, animal control officers, animal cruelty agents, dog control agents, and dog wardens.
- 1.2 The overall purpose of these regulations is to establish minimum training requirements for the certification of animal control officers and animal cruelty agents working in the State of Delaware. They also establish procedures for documenting all complaints filed against officers/agents, and conducting investigation of complaints concerning violations of this chapter.
- 1.3 These regulations define: (1) training and certification requirements for animal control officers and animal cruelty agents; (2) procedures for obtaining a certification from the Office of Animal Welfare; (3) training course approval process; (4) continuing education and recertification obligations; (5) disciplinary sanctions, and (6) complaint documentation and investigation procedures.

2.0 Definitions

The following words or terms, when used in these regulations, shall have the meaning indicated, unless the context otherwise requires:

"Animal Control Officer" means animal control constable, animal control officer, dog control agents, and dog wardens as defined in 3 Del.C., 9 Del.C., and 10 Del.C.

"Animal Cruelty Agent" means any person qualified to act pursuant to 11 Del.C. §1325.

"Certified Animal Control Officer" means an individual who has been certified by the Office to perform animal control pursuant to Section 3.0.

"Certified Animal Cruelty Agent" means an individual who has been certified by the Office to enforce animal cruelty laws pursuant to Section 5.0.

"Department" means the Department of Health and Social Services or its duly authorized representatives.

"Office" means the Division of Public Health Office of Animal Welfare or its duly authorized representatives.

3.0 Animal Control Officer Certification

- 3.1 No person shall serve as a Delaware animal control officer unless such person is trained and certified by the Office as set forth in this section.
- 3.2 A person who acts as a certified animal control officer without certification from the Office is subject to penalties pursuant to 16 Del.C. §107(a).
- 3.3 Individuals seeking certification as an animal control officer shall submit a written application documenting their qualifications to the Office of Animal Welfare, Carvel Building, 1901 N. DuPont Highway, New Castle, DE 19720.
- 3.4 In order to qualify for certification as an animal control officer, an applicant shall submit proof of the following requirements:
 - 3.4.1 Is eighteen (18) years of age or older;
 - 3.4.2 Is employed as an animal control officer in Delaware. A letter of intent from an organization hiring the individual as an animal control officer may be accepted;
 - 3.4.3 A criminal background check performed within 6 months of application showing the individual has not been convicted of any of the following:
 - 3.4.3.1 a felony offense.
 - 3.4.3.2 a crime or infraction involving animal abuse or neglect.
 - 3.4.3.3 a crime against person or property.
 - 3.4.4 Has a valid Delaware driver license;
 - 3.4.5 Has successfully completed an animal control training course that has been approved by the Office of Animal Welfare ("Office");
 - 3.4.6 Has passed an examination given by or approved by the Office; and
 - 3.4.7 Has completed a minimum of 20 hours of infield training under the direction of one or more senior Certified Animal Control Officers currently working in that capacity. The infield training shall commence upon successful completion of the animal control training course and exam.
- 3.5 The Office will receive and review all applications for animal control certification and determine eligibility within 14 business days.
- 3.6 The Office may, by endorsement, without written examination, certify an animal control officer who has completed a training program that meets the educational requirements for certification defined in 4.0 and who, in the opinion of the Office, meets the qualifications specified by these regulations for an animal control officer.

4.0 Training of Certified Animal Control Officers

- 4.1 An animal control officer training course shall provide at least forty (40) hours of instruction.
- 4.2 The course must be administered by or approved by the Office and minimum curriculum requirements shall include:
 - 4.2.1 Role and authority of an animal control officer;
 - 4.2.2 Delaware laws governing rabies control, animal control and protection, dangerous dogs, animal cruelty, and enforcement powers;
 - 4.2.3 Animal health and disease recognition, control, and prevention;
 - 4.2.4 First aid for injured animals;
 - 4.2.5 Principles and procedures for capturing and handling stray domestic animals, wildlife and livestock;
 - 4.2.6 Criminal justice system, investigative techniques, rules of evidence, and report writing;
 - 4.2.7 Principles of courtroom testimony and prosecution;
 - 4.2.8 Communications, conflict resolution, and officer safety; and
 - 4.2.9 Emergency management.

- 4.3 Following the training detailed in 4.2 of these regulations, the applicant shall take an examination provided by or approved by the Office. Applicants who fail to obtain a passing score after testing two times must repeat the training course before additional testing is permitted.
- 4.4 Upon completion of an examination outlined in 4.3 of these regulations, the applicant shall complete a minimum of 20 hours of infield training under the direction of one or more senior Certified Animal Control Officers currently working in that capacity.
- 4.5 The Office may waive the completion of all or part of the curriculum required upon presentation of documentary evidence that the individual has satisfactorily completed equivalent training or experience.
- 4.6 An animal control officer, if serving as such on the effective date of this Rule shall, within 6 months after the effective date of this Rule, complete the certification requirements outlined in 3.0 of these regulations. Persons who fail to complete the certification requirement within 6 months after the effective date of this Rule will not be authorized to act as an animal control officer in the State of Delaware and shall be subject to penalties pursuant to 16 Del.C. §107(a).
- 4.7 An animal control officer hired on or after the effective date of this Rule shall, within 60 days after the date of hire, complete the certification requirements outlined in 3.0 of these regulations. Officers that have not completed the certification requirement within 60 days after the date of hire will not be authorized to act as an animal control officer in the State of Delaware.

5.0 Animal Cruelty Agent Certification

- 5.1 No person shall serve as a Delaware animal cruelty agent unless such person is trained and certified as set forth in this Section.
- 5.2 A person who acts as a certified animal cruelty agent without certification from the Office is subject to penalties pursuant to 16 Del.C. §107(a).
- 5.3 Individuals seeking certification as an animal cruelty agent shall submit a written application documenting their qualifications to the Office of Animal Welfare, Carvel Building, 1901 N. DuPont Highway, New Castle, DE 19720.
- 5.4 In order to qualify for certification as an animal cruelty agent, an applicant shall submit proof of the following requirements:
 - 5.4.1 Is eighteen (18) years of age or older;
 - 5.4.2 Is employed as an animal cruelty agent in Delaware or authorized to enforce animal cruelty laws in Delaware. A letter of intent from an organization hiring the individual as an animal cruelty agent may be accepted;
 - 5.4.3 A criminal background check within 6 months of application showing the individual has not been convicted of any of the following:
 - 5.4.3.1 a felony offense.
 - 5.4.3.2 a crime or infraction involving animal abuse or neglect.
 - 5.4.3.3 a crime against person or property.
 - 5.4.4 Has a valid Delaware driver license;
 - 5.4.5 Has successfully completed an animal cruelty agent course that has been approved by the Office of Animal Welfare ("Office"); and
 - 5.4.6 Has passed an examination given by or approved by the Office.
- 5.5 The Office will receive and review all applications for animal cruelty agent certification and determine eligibility within 14 business days.
- 5.6 The Office may, by endorsement, without written examination, certify an animal cruelty agent who has completed a training program that meets the educational requirements for certification defined in 6.0 and who, in the opinion of the Office, meets the qualifications specified by these regulations for an animal cruelty agent.

6.0 Training of Certified Animal Cruelty Agent

- 6.1 An animal cruelty agent training course shall include training outlined in section 4.2 of these regulations and supplemental training of at least fourteen (14) additional hours of instruction specific to animal cruelty agents.
- 6.2 The supplemental training for animal cruelty agents must be administered by or approved by the Office and minimum curriculum requirements shall include:
 - 6.2.1 Advanced investigative techniques;
 - 6.2.2 Delaware animal cruelty statutes and animal cruelty agent authority;
 - 6.2.3 Arrest, search and seizure, use of force;

6.2.4 Blood sports, animal hoarding, and other crimes against animals;

6.2.5 Interview and interrogation techniques; and

6.2.6 Crime scene processing;

6.3 Following the training detailed in 6.2 of these regulations, the applicant shall take an examination provided by or approved by the Office of Animal Welfare. Applicants who fail to obtain a passing score after testing two times must repeat the training course before additional testing is permitted.

6.4 The Office may waive the completion of all or part of the curriculum required upon presentation of documentary evidence that the individual has satisfactorily completed equivalent training or experience.

6.5 An animal cruelty agent, if serving as such on the effective date of this Rule shall, within 6 months after the effective date of this Rule, complete the certification requirement outlined in 5.0 of these regulations. A person who fails to complete the certification requirement within 6 months after the effective date of this Rule will not be authorized to act as an animal cruelty agent in the State of Delaware and shall be subject to penalties pursuant to 16 Del.C. §107(a).

6.6 An animal cruelty agent hired on or after the effective date of this Rule shall, within 60 days after the date of hire, complete the certification requirement outlined 5.0 of these regulations. Agents that do not complete the certification requirement within 60 days after the date of hire will not be authorized to act as an animal cruelty agent in the State of Delaware.

7.0 Approval of Training Course

7.1 Any organization or institution desiring to conduct an animal control officer or animal cruelty agent education program shall apply to the Office and submit satisfactory evidence that it is ready and qualified to instruct students in the prescribed basic curriculum for certifying animal control officers and animal cruelty agents, and that it is prepared to meet other standards which may be established by the Office.

7.2 If the Office determines that any approved educational program is not maintaining the standards required by these regulations and by the Office, written notice thereof, specifying the deficiency and the time within which the same shall be corrected, shall immediately be issued to the program. The Office shall withdraw such program's approval if it fails to correct the deficiency within the time prescribed. The organization or institution may reapply for approval to the Office once the program meets standards established by the Office.

8.0 Issuance of Certification

8.1 The Office shall issue a certificate to each qualified applicant who has successfully met the requirements under subsections 3.4 and 5.4.

8.2 A copy of the certificate shall be kept on file at the animal control officer's or animal cruelty agent's place of employment.

8.3 The employer shall notify the Office in writing, no later than 10 days from the date of termination or resignation, of an animal control officer's or animal cruelty agent's employment. The employer shall state the reason for termination in the notification.

8.4 The Office shall maintain a current registry of all persons certified as animal control officers and animal cruelty agents in the state. The Office will post the registry on their Web site.

8.5 If a certified animal control officer or certified animal cruelty agent resigns or leaves the employment of an animal control/cruelty agency in good standing and is no longer working in the role of animal control officer or animal cruelty agent, the officer's/agent's certification shall become inactive. If the officer/agent is rehired as an animal control officer or animal cruelty agent within 6 months, the certification will be reinstated to active. If the officer/agent is not rehired within 6 months, the certification shall be revoked. The officer/agent can apply for recertification once they become employed as an animal control officer or animal cruelty agent.

9.0 Continuing Education and Recertification

9.1 A certified animal control officer or certified animal cruelty agent shall complete 8 hours of continued education and training every 12 months in order to maintain certification unless the Office, for good cause, grants an officer/agent additional time, not to exceed one year, to complete the training.

9.2 The Office may mandate additional training to ensure compliance with new laws, address emerging critical issues and trends, or to correct demonstrated performance deficiencies.

9.3 The officer or their employer shall submit the course description for training outlined in 9.1 and 9.2 to the Office for approval prior to taking a course. Evidence of completion of the training shall be submitted to the Office to satisfy the continuing education requirement in 9.1.

9.4 The certification of an animal control officer or animal cruelty agent shall be revoked if the officer/agent fails to satisfactorily complete the training in accordance with 9.1 through 9.3 of this regulation.

10.0 Denial, Revocation and Disciplinary Sanctions

10.1 The Office shall impose sanctions, including denying or revoking a certificate, on a certificate holder based upon any of the following:

10.1.1 Certificate was obtained through misrepresentation or fraud;

10.1.2 Found guilty of a crime against person or property;

10.1.3 Found by an employer or contracting entity to be unfit or incompetent;

10.1.4 Has had a certification or license to serve as an animal control officer or animal cruelty agent suspended or revoked in another jurisdiction;

10.1.5 Willfully or negligently violated this chapter;

10.1.6 No longer has a valid Delaware driver license; or

10.1.7 Has been terminated from employment as an animal control officer or animal cruelty agent.

10.2 The Office shall impose any of the following disciplinary sanctions singly or in combination when it finds a certified or former certified animal control officer or animal cruelty agent has violated any of the provisions of subsection 10.1:

10.2.1 Permanently revoke a certification.

10.2.2 Refuse a certification or certification renewal.

10.2.3 Suspend a certification.

10.2.4 Issue a letter of reprimand.

10.2.5 Require additional training.

10.2.6 Place a certification on probationary status and require the individual to:

10.2.6.1 Report regularly to the Office upon the matters which are the basis of probation;

10.2.6.2 Limit practice to those areas prescribed by the Office; or

10.2.6.3 Continue or renew professional education until satisfactory degree of skill has been attained in those areas which are the basis of the probation.

10.3 An animal control officer or cruelty agent may request an administrative hearing if they wish to contest the disciplinary sanctions.

10.3.1 The request shall be made in writing to the Secretary of the Department within 20 calendar days after issuance of the final written report and associated sanctions.

10.3.2 As soon as possible, but not later than 30 calendar days of receipt of the request for an administrative hearing, the Department shall set a time and place to conduct a hearing.

10.3.3 Notice of the hearing shall be given and the hearing conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29, and the Freedom of Information Act, Chapter 100 of Title 29.

10.3.4 The Department shall make a determination based upon the evidence presented.

10.3.5 A written copy of the determination and the reasons upon which it is based shall be sent to the officer within 30 calendar days.

10.4 During an administrative hearing:

10.4.1 The animal control officer/animal cruelty agent has the right to be represented by counsel.

10.4.2 All statements made shall be under oath.

10.4.3 The animal control officer/animal cruelty agent has the right to examine and cross-examine witnesses.

10.4.4 A stenographer recording will be made by a qualified court reporter. At the request and expense of any party, such record shall be transcribed with a copy to the other party.

10.5 The decision of the Department shall be based upon sufficient legal evidence. The Department may continue, modify or revoke the disciplinary sanctions.

10.6 All decisions of the Department shall be final and conclusive. Where the officer is in disagreement with the action of the Department, the officer may appeal the Department's decision to the Superior Court within 30 days of service or of the postmarked date of the copy of the decision mailed to the officer. The appeal shall be on the record to the Superior Court and shall be as provided in §§10142-10145 of Title 29.

11.0 Documenting and Investigating Complaints

- 11.1 The Office shall document all complaints filed directly with the Office, the employer, or with a contracting government entity against certified animal control officers and certified animal cruelty agents of alleged violations of 16 Del.C. §139.
- 11.2 All complaints must be received in writing and shall be reviewed and complaints concerning violations of this chapter will be investigated by the Office.
- 11.3 The Office shall notify the animal control officer or animal cruelty agent and the officer's/agent's employer and contracting entity of the complaint investigation within 30 days of receipt of said complaint.
- 11.4 The Office may refer the complaint to another agency or entity as appropriate.
- 11.5 The Office shall issue a final written report of the complaint investigation findings and any associated disciplinary sanctions outlined in 10.2 to the animal control officer or animal cruelty agent, the officer's/agent's employer, and the contracting entity sent by Certified Mail or hand delivered.

18 DE Reg. 932 (06/01/15) (Prop.)