

DEPARTMENT OF SAFETY AND HOMELAND SECURITY

DIVISION OF STATE POLICE

2400 BOARD OF EXAMINERS OF CONSTABLES

Statutory Authority: 10 Delaware Code, Chapter 27 (10 Del.C. Ch. 27)
24 DE Admin. Code 2400

PROPOSED

PUBLIC NOTICE

2400 Board of Examiners of Constables

Notice is hereby given that the Board of Examiners of Constables, in accordance with 10 Del.C. Ch. 27 proposes to adopt Rules: 4.0 - Badges & Vehicle Markings - requires all badges and vehicle markings to be approved by the Board. If you wish to view this adoption, contact Ms. Peggy Anderson at 302-672-5304. Any persons wishing to present views may submit them in writing, by July 1, 2016, to Delaware State Police, Professional Licensing, P.O. Box 430, Dover, DE 19903. The Board will hold a meeting on Thursday, July 28, 2016, Tatnall Building, 150 Martin L. King, Jr. Boulevard South, Room 112, Dover, DE.

2400 Board of Examiners of Constables

1.0 Licensing

- 1.1 All applicants must submit written testimony from five (5) reputable citizens attesting to good character, integrity, and competency.
- 1.2 All applicants shall be required to submit an application and their fingerprints to the Professional Licensing Section on the appropriate forms. The Director of the State Bureau of Identification shall set the processing fee.
- 1.3 A constable shall not be a member or employee of any Delaware law enforcement organization, as defined by the Council on Police Training or a member or employee of a law enforcement organization of any other state or federal jurisdiction.
- 1.4 All applicants who were not prior law enforcement, in any jurisdiction, must meet the minimum training standards as established by the Board. They must also submit to either the MMPI (Minnesota Multiphasic Personality Inventory) or the PAI (Personal Assessment Inventory) evaluation performed by a licensed psychologist who has knowledge of the requirements of the duties of the Constable position that the applicant is psychologically fit to function as a competent Constable.
- 1.5 Applicants, who were prior law enforcement officers in any jurisdiction in the State of Delaware, and have been away from active law enforcement under five years, will be considered for commissions on a case-by-case basis. Applicants who were prior law enforcement outside the State of Delaware will be required to take, and pass, a comprehensive, multiple-choice examination of the minimum standards established by the Board to demonstrate their knowledge of the duties of a Constable. If the test is failed twice, the applicant will be required to take the full training course.
- 1.6 Applicants, who have been law enforcement officers in the past but have been away from active law enforcement for more than five years, will be required to take an MMPI (Minnesota Multiphasic Personality Inventory) or the PAI (Personal Assessment Inventory), under the conditions noted in ~~Rule subsection~~ 1.4, and pass a comprehensive, multiple-choice examination of the minimum standards established by the Board to demonstrate their knowledge of the duties of a Constable. If the test is failed twice, the applicant will be required to take the full training course.
- 1.7 Applicants who are retired military law enforcement, corrections officers, or probation & parole shall take the class and submit to the MMPI/PAI.
 - 1.7.1 At the discretion of the Board, for good cause shown, the class may be waived.
- 1.8 If an applicant wishes to work for more than one agency, they must submit an application and be approved by the Board for each agency. All other requirements do not need to be submitted as they are already on file in the Professional Licensing Section.
- 1.9 All applicants seeking a new commission as a constable shall be required to submit a \$200.00 licensing fee.
- 1.10 All applicants seeking a commission renewal as a constable shall be required to submit a \$100.00 renewal licensing fee and shall accompany each re-application thereafter.
- 1.11 All commissions will expire on December 31st, two years from the year the commission was first issued. Any commissions needing to be adjusted will be charged a pro-rated fee.

Adopted 09/10/86
Amended 05/16/00
13 DE Reg. 677 (11/01/09)
18 DE Reg. 971 (06/01/15)

2.0 Suspensions, Revocations and Appeals

- 2.1 The Director of the Professional Licensing Section shall have the power to suspend or revoke the commission of any individual issued a commission under 10 **Del.C.** Ch. 27 who violates the Chapter or the promulgated Rules and Regulations.
- 2.2 The Director of the Professional Licensing Section may issue an emergency suspension of any individual issued a commission, under 10 **Del.C.** Ch. 27, who has been arrested where that arrest could result in the conviction of any misdemeanor or felony that violates the Chapter or the promulgated Rules and Regulations.
- 2.3 Any individual whose commission has been placed on emergency suspension, suspended, revoked, or denied may, within 30 days of such notice, submit a written request of the appeal to the Director of the Professional Licensing Section.
- 2.4 A hearing before the Board will be convened on a date determined by the Board to resolve the appeal.
- 2.5 The Board decision, in writing, will be mailed to the applicant within 10 working days after the hearing.

Adopted 09/10/86
18 DE Reg. 971 (06/01/15)

3.0 Criminal Offenses

- 3.1 For the purposes of 10 **Del.C.** Ch. 27, the Director of the Professional Licensing Section may deny an application, suspend or revoke a commission if the applicant or commissioned individual has been convicted of a misdemeanor crime involving moral turpitude. A misdemeanor crime involving moral turpitude includes, but is not limited to, the following crimes in the Delaware Code (or similar crimes under the laws of other jurisdictions):
 - 3.1.1 Title 11 Crimes and Criminal Procedures Ch. 5 Specific Offenses:
 - 3.1.1.1 §763 Sexual Harassment;
 - 3.1.1.2 §764 Indecent Exposure 2nd Degree;
 - 3.1.1.3 §765 Indecent Exposure 1st Degree;
 - 3.1.1.4 §766 Incest;
 - 3.1.1.5 §767 Unlawful Sexual Contact 3rd Degree;
 - 3.1.1.6 §781 Unlawful Imprisonment 2nd;
 - 3.1.1.7 §840 Shoplifting;
 - 3.1.1.8 §861 Forgery;
 - 3.1.1.9 §871 Falsifying Business Records;
 - 3.1.1.10 §881 Bribery;
 - 3.1.1.11 §907 Criminal Impersonation;
 - 3.1.1.12 §1101 Abandonment of a Child;
 - 3.1.1.13 §1102 Endangering the Welfare of a Child;
 - 3.1.1.14 §1105 Crime Against a Vulnerable Adult;
 - 3.1.1.15 §1106 Unlawfully Dealing with a Child;
 - 3.1.1.16 §1107 Endangering Children;
 - 3.1.1.17 §1245 Falsely Reporting an Incident;
 - 3.1.1.18 §1341 Lewdness;
 - 3.1.1.19 §1342 Prostitution;
 - 3.1.1.20 §1343 Patronizing a Prostitute; and
 - 3.1.1.21 §1355 Permitting Prostitution.
 - 3.1.2 Title 16 Health and Safety Ch. 11 Nursing Facilities and Similar Facilities:
 - 3.1.2.1 §1136 Violations.
 - 3.1.3 Title 31 Welfare Ch. 39 Adult Protective Services:
 - 3.1.3.1 §3913 Violations.

- 3.2 Anyone applying for commission under 10 **Del.C.** Ch. 27 shall not be issued a commission if they have any pending criminal charge(s) for any crimes listed in this Chapter.
- 3.3 The Director of the Professional Licensing Section may suspend anyone commissioned under 10 **Del.C.** Ch. 27 who has been arrested and that arrest could result in the conviction of any misdemeanor or felony as described in this Chapter.

Adopted 10/16/96

Amended 05/16/00

12 DE Reg. 977 (01/01/09)

13 DE Reg. 677 (11/01/09)

18 DE Reg. 971 (06/01/15)

19 DE Reg. 425 (11/01/15)

4.0 Reserved Badges and Vehicle Markings

- 4.1 No person licensed under 10 **Del.C.** Ch. 27 shall wear or display any uniform, patch, badge, seal, vehicle and the markings, letterhead, business card, advertisement, or other form of publication unless first approved by the Board of Examiners.
- 4.2 Under no circumstances shall any item contain the seal or crest of the State of Delaware, any state of the United States, the seal or crest of any county or local sub division, or any facsimile of the aforementioned seals or crests without proper authorization.
- 4.3 No such items will be approved by the Board if the item will mislead the public by confusing the entity and/or the constables with official law enforcement agencies and/or personnel.
- 4.4 All persons licensed under 10 **Del.C.** Ch. 27 shall wear or display their assigned badge visibly on the outermost garment.
- 4.5 Vehicle Identification
 - 4.5.1 No vehicle utilized for purposes covered by 10 **Del.C.** Ch. 27 shall have an appearance that creates a reasonable likelihood of confusion with a police vehicle used by the Delaware State Police or a law enforcement agency of any state or governmental subdivision. The Board of Examiners shall have discretion to review the appearance of vehicles, and to make comparisons with known law enforcement vehicles, in order to enforce this Section.
 - 4.5.2 In the event that a vehicle is not approved by the Board of Examiners pursuant to Section 4.0, the Board may indicate what changes to the vehicle appearance would be sufficient to satisfy the standards and criteria set forth above.
 - 4.5.3 Auxiliary lights on vehicles, used for patrol, shall be amber and/or white only. Use of sirens is prohibited.

5.0 Firearm's Policy

- 5.1 Section 5.0 shall apply only to individuals licensed under 10 **Del.C.** Ch. 27, while such individuals are acting in the performance of their duties as a constable.
- 5.2 No individual licensed under 10 **Del.C.** Ch. 27 shall carry a firearm unless the individual has first passed an approved firearms course of instruction and an initial qualification administered by an approved certified firearms instructor. The course of instruction shall include a minimum 40 hours of training. The Professional Licensing Section may waive the 40 hour training requirement depending upon the applicant's professional credentials, training and/or work experience (i.e. prior law enforcement). The initial qualification course may be used to fulfill one day and one low light requirement during the first year; however an additional day shoot must be completed at least 90 days after the date of initial certification, within the calendar year.
- 5.3 In order to carry a firearm, individuals licensed under 10 **Del.C.** Ch. 27 must shoot a minimum of three qualifying shoots per calendar year, scheduled on at least two separate days, with a minimum 90 days between scheduled shoots. Of these three, there will be one mandatory "low light" shoot and may be combined with a day shoot. Two day shoots shall not be completed on the same date.
 - 5.3.1 An individual not meeting the minimum qualifications set forth in subsection 5.3 may be suspended from carrying a firearm while acting in the performance of their duties as a constable until such time that they meet the minimum three qualifying shoots within the calendar year.
- 5.4 Only the handguns with the following calibers are permitted:
 - 5.4.1 9mm;
 - 5.4.2 .357;
 - 5.4.3 .38;

- 5.4.4 .40;
- 5.4.5 .45; or
- 5.4.6 .357 SIG.
- 5.5 All weapons must be either a revolver or semi-automatic and must be double-action or double-action only and must be maintained to factory specifications.
- 5.6 Under no circumstances will anyone under this ~~Rule~~ Section be allowed to carry any type of shotgun or rifle or any type of weapon that is not described herein.
- 5.7 All individuals must meet the minimum qualifications set forth in subsection 5.3 with the same make/model/caliber of weapon that he/she will carry.
- 5.8 All ammunition must be factory fresh (no re-loads).
- 5.9 The minimum passing score is 80%.
- 5.10 All licenses/commissions are valid for a period of two years, subject to proof of compliance of Section 5.0 by submission of shoot certification or re-certification forms to the Professional Licensing Section, by January 15th of each year for the previous calendar year.
- 5.11 Firearms Instructors providing instruction under Section 5.0:
 - 5.11.1 Firearms instructors must be certified by the National Rifle Association, a law enforcement training and standards commission (i.e. C.O.P.T.), or another professional firearms training institution as a "certified firearms instructor".
 - 5.11.2 Firearms instructors are restricted to teaching and qualifying individuals according to the type of firearm matching their certification. (For example, a certified handgun instructor may only instruct and qualify individuals with the handgun.)
 - 5.11.3 All firearms instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify licensed/commissioned individuals.

Adopted 05/20/02

16 DE Reg. 996 (03/01/13)

19 DE Reg. 425 (11/01/15)

6.0 Baton, Nightstick, Pr24, Chemical Spray, and Handcuffs

- 6.1 To carry the above weapons/items a constable must have completed a training program on each and every weapon/item carried and all certifications must be on file in the Professional Licensing Section to be valid to carry/use. Under no circumstances would a person be permitted to carry any other type weapon/item, unless first approved by the Professional Licensing Section.
- 6.2 Weapon/Item Instructors
 - 6.2.1 All weapon/item instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals licensed under 10 **Del.C.** Ch. 27.

18 DE Reg. 971 (06/01/15)

7.0 Conducted Electrical Weapon (CEW)

- 7.1 In order for a constable to carry/use a conducted electrical weapon (CEW), he/she must complete a training program approved by the Board and all certifications or re-certifications must be on file with the Professional Licensing Section.
- 7.2 CEW Instructors
 - 7.2.1 All CEW instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals licensed under 10 **Del.C.** Ch. 27.

18 DE Reg. 971 (06/01/15)

19 DE Reg. 426 (11/01/15)

8.0 Canine

- 8.1 In order for a constable to use a canine, he/she, and the canine, must complete a training program approved by the Board and all certifications or re-certifications must be on file with the Professional Licensing Section.
- 8.2 Canine Instructors
 - 8.2.1 All canine instructors must be approved by the Professional Licensing Section before they are authorized to instruct or qualify individuals licensed under 10 **Del.C.** Ch. 27.

18 DE Reg. 971 (06/01/15)

9.0 Minimum Training Standards and In-Service Training

- 9.1 The Constable Academy, administered through Delaware Technical Community College (DTCC) Workforce Development and Community Education (WDCE), shall instruct applicants in the minimum training standards established by the Board. The Academy shall be a minimum of 180.5 hours and include, but is not limited to the following courses:
- Introduction to law enforcement and constables; constitution and bill of rights; other police agencies/fire departments/ambulance jurisdictions; basic defensive driving; traffic investigations; criminal investigations; sex crimes; criminal code; handling person with disabilities; interventions with people suffering with mental health and substance abuse; civil disobedience; labor disputes (crowd control); active shooter; courtroom procedure and demeanor; cultural diversity and community relations; domestic violence; basic first aid; CPR; AED; NIMS 700; ICS 100; information systems – communications, report writing, DELJIS; interview/interrogation techniques; manual traffic control; juvenile procedures; laws of evidence and search and seizure; laws of arrest; police communication and crisis intervention; police discipline and ethics; baton/nightstick/pr24/chemical spray/handcuffing; officer survival/defensive techniques; patrol procedures; drug identification and controlled substances; canine; and 4th amendment.
- 9.2 Applicants attending the Academy must take and pass the test with a minimum score of 75%. Any failed test may be taken again within two weeks of the first test. A second failed test will require the applicant to take the Academy again.
- 9.3 In-service training shall be every year. Odd years will be eight hours of classroom training through DTCC/WDCE. Even years will be done by completing an on-line modular and test through DTCC/WDCE.
- 9.3.1 All in-service training courses must be approved by the Board.
- 9.3.2 Failure to complete the in-service training every year shall be grounds for suspension or revocation of a current commission. Any commissioned individual not obtaining the in-service training for a given year by the last class offered shall be placed on emergency suspension immediately. Any training missed, or not completed, by a commissioned individual must be completed before the emergency suspension may be administratively lifted. On-line training must be made up on-line and classroom instruction must be made up in person in the classroom. Notwithstanding the foregoing, the Board may consider extenuating circumstances for reinstatement at its discretion.
- 9.3.3 Any in-service training test must be passed with a minimum score of 75%. Any failed test may be taken again within two weeks of the first test. A second failed test will require the individual to take the training again.

19 DE Reg. 652 (01/01/16)

19 DE Reg. 1066 (06/01/16) (Prop.)