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TITLE 16

Health and Safety

Regulatory Provisions Concerning Public Health

CHAPTER 30F. ANIMAL WELFARE

Subchapter I. Shelter Operation

§ 3001F Definitions.

For purposes of this subchapter:

- (1) "Animal shelter" means a public or private facility which includes a physical structure that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals and that is operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals. "Animal shelter" shall not include individuals providing temporary foster care to animals in their home or to animal rescue groups sheltering animals on an individual's private property.
- (2) "Department" means the Department of Health and Social Services or its duly authorized representatives.
- (3) "Licensed veterinarian" means a veterinarian licensed to practice veterinary medicine pursuant to Title 24.
- (4) "Licensed veterinary technician" means an individual licensed as a veterinary technician pursuant to Title 24.

[77 Del. Laws. c. 418. § 2](#); [79 Del. Laws. c. 377. § 1](#);

§ 3002F Shelter care and treatment.

- (a) Animal shelters shall be advised by a licensed veterinarian and shall adhere to a written veterinary care protocol developed with a licensed veterinarian, which protocol shall include appropriate evaluation and testing of newly impounded animals, disease control and prevention, and adequate veterinary care. The protocol shall be updated as needed.

(b) Animal shelters shall vaccinate all dogs against canine distemper virus, canine parvovirus, and bordetella bronchiseptica and all cats against feline viral rhinotracheitis, calicivirus, and the panleukopenia virus before or upon entering the shelter or holding facility to reduce the spread of disease. Such vaccinations must be administered as soon as possible and no more than 8 hours after entering the shelter. This provision shall not apply to animals in quarantine for rabies observation or to animals having injuries, illness or temperament that make administration of the vaccinations unsafe.

(c) An examination of animals entering an animal shelter shall be performed within 72 hours of entry.

(d) Animal shelters shall ensure that animals requiring veterinary care are seen by a licensed veterinarian within a reasonable amount of time based on the condition of the animal, and that urgent medical care is provided as needed. Animal shelters shall comply with treatment plans developed by a licensed veterinarian for animals at the shelter requiring treatment.

(e) Animal shelters shall include a designated treatment area and isolation and/or quarantine areas. Animals suspected of carrying a contagious deadly disease will be moved to isolation or quarantine and remain there until they are no longer a threat to susceptible animals.

[65 Del. Laws. c. 136, § 1](#); [77 Del. Laws. c. 418, § 2](#); [79 Del. Laws. c. 377, § 1](#);

§ 3003F Animal adoption, recovery, and rehabilitation.

(a) Animal shelters shall be open to the public after normal business hours, including evenings and weekends, to increase access for the purpose of adoption.

(b) Animal shelters shall provide a minimum holding period of 72 hours for animals in their care, to allow reclamation by their owners. If an adoptable animal is not reclaimed, the animal may be transferred to another animal shelter or rescue for adoption, or adopted as a companion in a suitable home. This holding period required by this subsection shall not apply to owner-surrendered animals or other cases in which the owner of the animal is known. Wild animals may be disposed of by rehabilitation to their natural habitat.

(c) *Animal recovery.* —

(1) Animal shelters shall take appropriate action to ensure that all animals brought to the shelter are checked for all currently acceptable methods of identification, including microchips, identification tags, tattoos, and licenses.

(2) Animal shelters shall maintain updated lists of animals reported lost, and attempt to match these lost reports with animals reported found and animals in the shelter, and shall also post all stray animals on the Internet with sufficient detail to allow them to be recognized and claimed by their owners.

(3) If a possible owner is identified, the animal shelter shall make every reasonable attempt to reunite the animal with its owner. Upon the owner's or caretaker's initiative of recovery procedures, the animal shelter shall retain custody of the animal for a 5-day period to allow for completion of the recovery process. The owner or custodian of the animal may be held responsible for reasonable housing and boarding costs once the owner or custodian has been notified of the animal's location, provided that the owner or custodian has been advised of such costs prior to the costs being incurred.

(d) Animal shelters shall establish and maintain a registry of organizations willing to accept animals for the purpose of adoption, including breed specific rescues, or to provide the animals with long-term placements. The registry shall include the types and breeds of animals about which the organization wishes to be contacted. Animal shelters shall have the right to inspect the facilities of any adoption organization taking animals from the shelter.

(e) Animal shelters shall make best efforts to prioritize acceptance of animals from within the State of Delaware before accepting dog or cat intakes from outside of Delaware. Animals accepted from shelters outside the State of Delaware must have a current health certification.

§ 3004F Euthanasia in animal shelters.

(a) Any dog, cat or other animal held by or in the custody of an animal shelter and not adopted, transferred to another shelter or animal rescue group, or reclaimed by the owner within 5 days may be euthanized, provided that no reasonable alternatives are available and the requirements of subsections (b) and (c) of this section are met.

(b) Animal shelters shall ensure that the following conditions are met before an animal is euthanized:

- (1) The holding period for the animal required by this subchapter is expired;
- (2) There are no empty cages, kennels, or other living environments in the shelter that are suitable for the animal;
- (3) The animal cannot share a cage or kennel with appropriately-sized primary living space with another animal;
- (4) A foster home is not available;
- (5) Organizations on the registry developed pursuant to § 3003F(d) of this title are not willing to accept the animal; and
- (6) The animal care/control manager certifies that the above conditions are met and that such manager has no other reasonable alternative.

(c) Notwithstanding any other provisions of this chapter to the contrary, an animal may be euthanized immediately if necessary to alleviate undue suffering or to protect shelter staff and/or other sheltered animals from an animal's severe aggression or contagious deadly health condition. The determination of whether euthanasia is necessary pursuant to this subsection shall be made by a licensed veterinarian or, in cases of extreme emergency occurring after regular business hours in circumstances under which a licensed veterinarian is not available, by other appropriately trained staff.

(d) *Euthanasia method and procedure.* —

- (1) The Department shall promulgate regulations regarding acceptable methods of euthanasia in animal shelters and regarding sanitation and ventilation of euthanasia areas. The methods included shall be approved or conditionally approved by the most recent American Veterinary Medical Association Guidelines on Euthanasia.
- (2) Under no circumstances shall carbon monoxide or carbon dioxide be used as a method of euthanasia.
- (3) Any animal shelter performing euthanasia shall have a current policy and procedure manual regarding euthanasia. The policy and procedure manual shall set forth the shelter's equipment, process, and the procedures for individual separation of animals.
- (4) Notwithstanding the provisions of Chapter 33 of Title 24, euthanasia must be performed by:
 - a. A licensed veterinarian;
 - b. A nationally certified euthanasia technician; or
 - c. A licensed veterinary technician; or
 - d. A person certified by a licensed veterinarian, after passing both a written and practical examination, as proficient to perform euthanasia. Training and certification requirements shall be established by Department regulation in consultation with the Delaware Board of Veterinary Medicine.

(5) If euthanasia is by injection, animals in an animal shelter that are amenable to being controlled shall be lowered to the surface on which they are being held and shall not be permitted to drop or otherwise collapse without support.

(6) The trained staff member performing the euthanasia in animal shelters shall remain in attendance between the time procedures to euthanize the animal are commenced and the time death occurs, and shall verify death has occurred using methods to be determined by regulation.

(7) Sodium pentobarbital may be obtained by an animal shelter with required federal and state permits.

[65 Del. Laws, c. 136, § 1](#); [70 Del. Laws, c. 186, § 1](#); [77 Del. Laws, c. 418, § 3](#); [79 Del. Laws, c. 377, § 1](#);

§ 3005F Proper facilities required.

Any municipality that does not have proper facilities and trained personnel shall transport in a humane manner any animals which are to be euthanized to the nearest private or public shelter or agency which has proper facilities and trained personnel or contract for euthanasia of such animals by a licensed veterinarian.

[65 Del. Laws, c. 136, § 1](#); [77 Del. Laws, c. 418, § 3](#); [79 Del. Laws, c. 377, § 1](#);

§ 3006F Violation constitutes class A misdemeanor; civil remedy; jurisdiction of Superior Court.

(a) Failure by any person employed by, volunteering at or an agent of any private or public animal shelter to comply with § 3004F(d) of this title regarding euthanizing animals shall constitute a class A misdemeanor and shall be punishable as provided by law.

(b) Any person may maintain a civil action to enjoin the continuance of the violation of § 3004F(d) of this title. If the acts sought to be enjoined are determined by the courts to violate § 3004F(d) of this title, a permanent injunction against such acts shall be granted. The violation may also be abated by any public body or officer authorized to do so by law.

(c) The Superior Court shall have exclusive jurisdiction of misdemeanor offenses under this section.

[65 Del. Laws, c. 136, § 1](#); [77 Del. Laws, c. 418, §§ 3- 6](#); [79 Del. Laws, c. 377, § 1](#);

§ 3007F Record keeping and reporting.

Animal shelters shall maintain records regarding the following information:

- (1) Intake rate;
- (2) Euthanasia rate including age (infant, juvenile, and adult), by animal;
- (3) Number of adoptions;
- (4) Number reclaimed by owner;
- (5) Number transferred to other agencies for adoption;
- (6) Number of spay/neuters;
- (7) Number of animals in the shelter;
- (8) Records showing the number of animals that died or were lost/stolen;
- (9) Records showing compliance with vaccination requirements; and
- (10) Records regarding medical treatment provided.

The information in paragraphs (1) through (7) of this section shall be posted to the shelter's website on a quarterly basis. The information in paragraphs (8), (9) and (10) of this section shall be made available upon

request by appropriate authorities.

[77 Del. Laws. c. 418. § 7](#); [79 Del. Laws. c. 377. § 1.](#);

§ 3008F Enforcement.

- (a) The Department shall adopt rules and regulations as may be necessary for the protection and care of companion animals in animal shelters, as defined in this subchapter.
- (b) The Department will conduct at least annual inspection of every animal shelter.
- (c) The Department or its duly authorized representative(s) shall have the power to enter at all reasonable times, during ordinary business hours, upon any private or public animal shelter for the purpose of determining whether or not there is compliance with or violations of this subchapter, rules, and regulations thereunder.
- (d) Upon request of the Department, animal shelters shall make available records concerning the requirements of this subchapter.
- (e) All findings will be documented in writing and a copy provided to the animal shelter within 30 days. Once provided to the animal shelter, the documentation will also be posted on the Department web site. Deficiencies must be corrected within the timeframe established by the Department.
- (f) The Department shall have the power to issue orders to correct deficiencies and to impose penalties pursuant to § 107(a) of this title.
- (g) The animal shelter management has the right to appeal the results of the inspection. If the opinion of the animal shelter management is in conflict with the inspection, the animal shelter management may request a review of the inspection by the Department. The appeal will be made in writing and submitted within 30 days after publication of the findings. After receipt of the appeal, the Department will have 60 days to respond in writing.
- (h) The Department shall conduct an investigation upon receipt of a complaint of alleged violations of this subchapter.
 - (1) Anyone desiring to file a complaint against any animal shelter shall file a written complaint with the Department. All complaints shall be reviewed and complaints concerning violations of this chapter will be investigated by the Department or its designee. The Department shall notify the animal shelter of the complaint within 30 days of receipt of said complaint. The Department shall be responsible for issuing a final written report of violations of this subchapter to the animal shelter. Once the final report is issued to the animal shelter, the report will also be posted to the Department web site at the conclusion of the proceedings.
 - (2) The animal shelter management may, in writing to the Department, request a hearing if they wish to contest the findings of the investigation. The appeal will be made in writing and submitted within 30 days after publication of the findings. Within 30 days of receipt of the request for public hearing, the Department shall set a time and place to conduct a hearing on the complaint. 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.

[79 Del. Laws. c. 377. § 1.](#);



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