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HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 297
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO THE CONSTRUCTION AND
ACCEPTANCE OF NEW ROADS AND STREETS FOR STATE MAINTENANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 508, Title 17 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 508. Dedication of new roads and streets for state maintenance; approval required; security.

(a)(1) As used in this section, "developer" means the owner of real property on which residential or commercial development is occurring, or the person actually engaged in the development or construction of residential or commercial property.

(2) This section applies to a residential or commercial development which the Department determines affects or requires access to state-maintained highways, streets, or roads.

(3) No A person, firm—firm, or corporation shall— may not construct, or cause to be constructed—any constructed, a new road or street outside the corporate limits of any city or town— municipality and intended to be dedicated by the owner thereof of the road or street to the this State for public use, including the initial installation of traffic and street name signs, unless such the road or street is in conformity with this section and with plans and specifications approved by the Department and with this section: Department.

(4) At a minimum, the initial installation of road or street name signs must include the placement of such—the signs at each intersection of the new road or street with any other road or street, capable of being read from each direction on any a road or street at each intersection.

(5) The new road or street shall be is a continuation of an existing or proposed public road designed to be part of the general highway system of the State.

(6) Such—construction shall The construction of a new road or street must be performed pursuant to under a written agreement with the Department, signed by the developer as hereinafter defined incorporating but not limited to developer, that includes all of the following:

- a. ~~the~~ The plans and specifications approved by the ~~Department,~~ Department.
- b. ~~the~~ The posted security for ~~completion,~~ completion required under paragraph (b)(1) of this section.
- c. ~~the~~ The location of any decorative subdivision entrance signs installed by the ~~developer,~~ developer.
- d. ~~and whatever~~ Any other terms the ~~Department, in its sole discretion,~~ Department determines may be necessary.

~~The owner or person actually engaged in any development or construction of residential or commercial property as determined by the Department which will affect or require access onto state-maintained highways, streets and roads shall be known as the “developer” for purposes of this section.~~

~~(2)(7)a. Pursuant to the terms of this section and such rules, regulations, standards and/or regulations as may be adopted by virtue thereof, the~~ The Department shall accept ~~such roads or streets~~ a road or street constructed in compliance herewith into with this section and the rules, regulations, and standards adopted by the Department under this section into the state maintenance system; system.

b. ~~provided, however, that with regard to any road or street constructed to serve any dwelling, building or facility, etc., other than single family residences, the~~ Notwithstanding paragraph (a)(7)a. of this section, the Department ~~shall have~~ has the sole discretion as to whether ~~such~~ a road or street shall be constructed to serve a dwelling, building, facility, or other structure is accepted into the state maintenance system.

~~(b)(1) Before~~ Except as provided by paragraph (b)(3) of this section, before commencement of any construction undertaken pursuant to under this section, including the installation of utilities within the dedicated right-of-way, ~~the~~ a developer shall first post with the Department a good and sufficient bond, certified check, letter of ~~credit~~ credit, or other form of security acceptable to the Department in a manner and form approved by the Department and ~~in such amount as may be fixed, but not to exceed 10% in the amount of 150% of the estimated cost of such construction top coat as approved by the Department, which~~ Department. The bond, certified check, letter of ~~credit or the like, shall be~~ credit, or other form of security acceptable to the Department must be conditioned on the faithful performance and satisfactory completion of the obligations imposed by subsection (a) of this section.

~~(2)a. If top coat is not underway 7 years from the date the bond, certified check, letter of credit, or other form of security acceptable to the Department is posted with the Department under paragraph (b)(1) or (b)(3) of this section, the estimate to complete top coat must be revised to reflect current costs and the developer must post any security the Department deems necessary to meet the requirements of paragraph (b)(1) or (b)(3) of this section.~~

b. The process under paragraph (b)(2)a. of this section is to be repeated every 5 years until the developer complies with the written agreement entered into under paragraph (a)(6) of this section.

(3) ~~In the event the~~ If a developer, regardless of corporate name, has been adjudged by the Department to be in violation of this section ~~and/or or~~ has not maintained a satisfactory record of compliance on repair and construction completion as determined by the Department, ~~then~~ the Department may require a bond, certified check, letter of ~~credit~~ credit, or other form of security acceptable to the Department, consistent ~~herewith~~ with this subsection in an amount ~~not to exceed 100 percent of at least 100%, but not more 125%,~~ of the cost of ~~such~~ the construction.

(c)(1) The Department shall inspect ~~any~~ a new road or street being constructed ~~in accordance with~~ under this section ~~as well as and~~ any construction construction, including utilities within the road or street ~~right-of-way to insure that~~ right-of-way, to ensure the construction is in conformity with standards, ~~plans~~ plans, and specifications approved by the Department. ~~Upon~~ On dedication of the right-of-way to the public use and satisfactory completion of the ~~street or road~~ construction road or street construction, including its connection to an existing state maintained ~~road within the sole~~ road judgment, discretion and approval thereof by the Department, highway, street, or road, the Department shall do all of the following:

a. ~~so notify~~ Notify the developer that the ~~new~~ road or street has been accepted into the state maintenance system and that the dedicated right-of-way has been accepted according to the terms of ~~such~~ the acceptance.

b. Release to the developer the bond, certified check, letter of credit, or other security acceptable to the Department posted by the developer under subsection (b) of this section.

(2) A signature from a Department inspector ~~shall~~ must be obtained before the Department can accept a road or street from a developer into the state maintenance system.

(3) The Department shall inform by letter an officer of the maintenance association, if any, in the development in which the road or street will be dedicated, that the Department has accepted the road or street from the developer. The Department shall send copies of ~~such~~ the letter to the state Senator and state Representative for the senatorial and representative district in which the road or street is located. ~~Such letter shall~~ The letter must indicate the acceptance date of the ~~roadway or roadways~~ road or street and an explanation of the State's 3-year good faith warranty.

(4) The Department, ~~upon~~ on acceptance of a road or street, shall ~~thereafter~~ assume the sole and absolute care, ~~management~~ management, and control of the new road or street as a public road or street. Until ~~such time as~~ the Department accepts ~~the~~ a new road or street, the developer or the developer's legal successor in interest ~~shall be~~ is solely responsible for maintenance ~~thereof~~ of the road or street.

(5)a. The Department's standards for ~~newly constructed residential subdivision streets~~ a new road or street include a requirement that a decorative sign that includes the name of the subdivision and a logo of the State's famous

patriot, Caesar Rodney. These new signs shall be Rodney be installed at each newly approved subdivision and shall be paid for by the developer or developers of such of the subdivision.

~~b. Existing subdivisions may also~~ A subdivision in existence on July 1, 2005, may request the Department to install these new signs a decorative sign required under paragraph (c)(5)a. of this section in place of other signs previously used by the Department. Such The requested replacement signs shall decorative sign must be paid for by the subdivision or from Community Transportation Funds allocated by a legislator requesting such signs. who requests the decorative sign.

c. The Department shall replace existing standard signs a standard sign damaged by vandalism, accident, or the ravages of time with another standard signs sign under it's the Department's regular maintenance program, unless the decorative alternative has been requested under the provisions of this subsection.

~~(d) In order to carry out the purpose of this section, the~~ The Department shall make and publish rules, regulations, standards and/or standards, or specifications for planning, designing, constructing constructing, and maintaining any a new road or street.

(e) The bond, certified check, letter of credit credit, or other acceptable forms of security, form of security acceptable to the Department posted with the Department shall be under paragraph (b)(1) or (b)(3) of this section is immediately due and owing upon on failure of the developer to meet the obligations set forth in the agreement executed pursuant to under this section. Upon On failure of the developer to comply with the standards, plans plans, and specifications and/or or with the terms of the said construction agreement executed under this section, the Department may do one or more of the following:

(1) Withdraw any approval to construct such a road or street which it the Department has given pursuant to under this section and may thereafter may, after the withdrawal of the approval, notify the appropriate governmental agency to cease issuance of occupancy permits for dwellings in the construction area; area.

(2) Proceed to forfeiture of the bond, certified check, letter of credit credit, or other form of security; security acceptable to the Department posted under paragraph (b)(1) or (b)(3) of this section.

(3) Move to fine violators pursuant to this section; a violator under this section.

(4) Seek specific performance of the developer's agreement; agreement.

(5) Within its sole discretion, conditionally Conditionally accept and satisfactorily complete the road or street and recover damages in the amount of completion costs and incidental expenses from the developer; and/or developer.

(6) Institute whatever other legal or equitable actions action is necessary to cause the streets road or street to be completed.

(f) ~~Any person, firm, corporation, developer and/or the like which does not comply with this section shall, A developer that does not comply with this section~~ within 100 days of written notification by the Department of ~~such violation, be a violation is to be punished by a fine of not less than \$100 nor more than \$1,000 for each offense, and the offense and the further sum in an amount equal to the amount fined for the initial offense for each and every day such violation exists; provided that the the violation exists. The total fine shall imposed under this subsection may not exceed the total estimated cost of street the construction and incidental expenses related thereto. to the construction of the road or street.~~

(g) Any funds received as the result of action taken ~~pursuant to~~ under this section ~~shall~~ must be utilized by the Department to carry out the general purposes of this title.

(h) ~~Any developer who is found to be A developer found~~ in violation of this section by the Department ~~shall thereafter be unable to conduct~~ is prohibited from conducting business in the State until all conditions created by ~~such the~~ developer constituting a violation of this section have been corrected to the satisfaction of the Department.

(i) ~~The Justice of the Peace Courts shall have~~ Court has jurisdiction over ~~violations a violation~~ of this section ~~to the extent that they are hereby granted the authority to~~ section. The Court may order forfeiture of the security ~~posted pursuant to required under paragraph (b)(1) or (b)(3) of this section and may impose the fines set forth in a fine under subsection (f) of this section.~~