

LOCAL LAWS OF THE TOWN OF DELAWARE
YEAR 2003

LOCAL LAW #1-2003: ROAD LAW: On motion of Councilman Mallett, who moved its adoption, and seconded by Councilman Baum, to wit:

Section One: Title - This is a Law regulating the dedication of any road or drainage facilities in connection therewith in the Town of Delaware, Sullivan County, New York. It may be referred to as the "Town of Delaware Road Law".

Section Two: Purpose - This law is enacted for the purpose of insuring that all roads dedicated to the Town of Delaware meet certain minimum standards of construction and safety. It is further the objective of this law to avoid the assumption of Town responsibility for roads which would be difficult and costly to maintain or potential safety hazards until such deficiencies are first corrected.

Section Three: Jurisdiction and Scope - This law shall apply to all roads proposed for dedication to the Town of Delaware, Sullivan County, New York. No road shall be accepted for maintenance by the Town of Delaware unless said road meets the standards contained herein and has been reviewed and approved by the Town of Delaware Highway Superintendent.

Section Four: Standards - The following shall be the minimum requirements for any road dedication to the Town:

- a) **Right-of-Way** - A legal right-of-way of not less than fifty (50') feet shall be provided. "Legal right-of-way" shall mean the width dedicated to road purposes which may be greater than the area actually used as a traveled portion, shoulders and drainage facilities. Greater widths may be required to include the top of cuts or bottom of fills.

- b) **Line and Grade** - The line and grade of all roadways shall be constructed or reconstructed to maintain a minimum sight distance in either direction of 300 feet measured at eye level. Grades shall be no less than 0.5 % nor more than 12.0 %, except that grades of up to 15 % may be accepted for distances of 500 feet separated by distances of 500 feet. Horizontal curves shall have a minimum radius of 510 feet and a maximum curvature of 11.5 degrees.

- c) **Road Section** - The road section shall as a minimum meet the standards utilized in the "Typical Road Cross Section - Town of Delaware" which is attached and hereby made part of this Law. This includes minimum widths for the traveled portion of the road and shoulders of twenty (20') feet and five (5') feet respectively. "Traveled Portion" shall mean that part of the road with base and top constructed as herein provided and over which vehicles may be driven. Cut and fill slopes shall be no greater than one (1) on two (2) or 50% using earth and three (3) on one (1) in rock. The road base shall be a minimum of thirty (30') feet in width.

d) **Road Surface** - Each road shall contain a sub-base of material placed on a stable and compacted sub-grade or ground of which no rock particle shall exceed two (2') feet in diameter. The use of underdrains and geotextile filter or stabilization fabrics may be directed by the Town Highway Superintendent to insure a stabilized sub-grade. A bottom course of the sub-base shall be required in every instance and shall consist of a thirty (30') foot wide, eight (8") inch course of bank run gravel or crushed stone of which no particle shall exceed such a size as will pass through a four (4") inch square hole or sieve. This shall be topped with a twenty (20') foot wide, four (4") inch course of selected gravel or crushed stone of which no particle shall exceed such size as will pass through a two (2") inch square hole or sieve. Each course will be installed in lifts not exceeding six (6") inches in depth and will be compacted with a vibratory compactor achieving a compaction satisfactory to the Town Highway Superintendent. Shoulder material will be the same as the sub-base top course. A bituminous surface shall be installed and shall be a minimum of thirty (30') feet in width to include the shoulders. The bituminous surface shall have a compacted thickness of at least three (3") inches consisting of a two (2") inch course of Type 3 binder hot mix asphalt concrete and a one (1") inch course of Type 6F top hot mix asphalt concrete or a three (3") inch course of sealed cold mix asphalt.

e) **Drainage** - At each point where the road is intersected by a driveway which requires that surface drainage water be carried under the drive, a sluice pipe of not less than twelve (12") inches in diameter nor less than twenty (20') feet in length, constructed of corrugated or heavy steel pipe, heavy duty polyethylene (HDPE), or equivalent, as approved by the Town Highway Superintendent shall be installed across the width of the driveway and extending an additional one (1') foot beyond on both sides. It shall be installed with a minimum of one (1') foot of tamped impermeable cover. In instances involving unusually heavy traffic the Town Highway Superintendent may also specify greater dimensions for driveway culverts and sluices. Headwalls shall be installed on each end of the pipe.

At each point along the road where a cross drain is required a sluice pipe of not less than fifteen (15") inches in diameter nor less than forty (40') feet in length, constructed of corrugated or heavy steel pipe, heavy duty polyethylene (HDPE), or equivalent, as approved by the Town Highway Superintendent, shall be installed across the width of the base and extending two (2') feet beyond on both sides. It shall be installed with a minimum of two (2') feet of tamped impermeable cover consisting of one (1') foot of compacted earth and one (1') foot of gravel or crushed stone as specified in Section Four (d) above. In instances involving unusually heavy traffic or large drainage basins, the Town Highway Superintendent may consult with the Sullivan County Soil and Water Conservation District and/or specify greater dimensions for culverts and sluices. Headwalls shall be installed on each end of the pipe. Any watercourse requiring a drainage structure which will have a waterway area in excess of 150 square feet in size or a span across the watercourse of fifteen (15') feet shall be designed by a Professional Engineer. Any headwalls, drop inlets, catch basins, manholes, or similar structures for

the removal of storm-water shall be of a design and material approved by the Town Highway Superintendent.

f) **Dead-End Streets** - Dead-end streets shall end in a cul-de-sac with a surface area of not less than eight (80') feet in diameter, and a right-of-way of not less than 120' feet in diameter. Within the center of this cul-de-sac and surfaced area an unsurfaced area of not more than forty (40') feet in diameter may be permitted with approved internal drainage. No structures may, however, be permitted in this area.

g) **Guardrails** - Guardrails of a type approved by the Town Highway Superintendent shall be installed in any instance where the difference in elevation from the edge of a shoulder to the toe of any slope within the road right-of-way is greater than six (6') feet. Should the right-of-way be in excess of fifty (50') feet in width, guardrails will be required in any instance where the slope away from the road exceeds 35%.

h) **Miscellaneous** - All slopes shall be seeded and mulched to prevent erosion. All signs installed shall be in conformance with the New York State Manual of Uniform Traffic Control Devices. If name signs are provided they shall comply with standards established by the Town Highway Superintendent and no road shall be named the same as any other existing or proposed highway within the Town of Delaware. Intersections shall be as close to 90' as possible but in no case less than 60'. Intersections shall be offset a minimum of 125'. All road curves shall be adequately banked.

i) **State Requirements** - All other requirements of State Law, insofar as Town highway construction is concerned, also apply to roads proposed for dedication to the Town of Delaware. These requirements are in addition to any specifications outlined herein.

Section Five: Procedures - Any person or persons proposing to dedicate a road to the Town of Delaware shall prepare plans of the same in five (5) copies to be submitted to the Town Board, together with the specified filing fee, for approval. Plans shall be prepared by a Professional Engineer and maps shall be at a scale of 1"= 100' or larger. Plans shall include a map showing names of streets, cross-sections, grades and distances and bearings of right-of-way lines. The plans shall also include such information in writing as may be necessary to document compliance with this Law. This shall include:

- 1) Such information as required to adequately reflect land conditions, topography, soils, etc.
- 2) Details on road widths and dimensions of other facilities.
- 3) Specifications for drainage structures and bridges.
- 4) Identification of the markers which will indicate on the ground the location of property lines.

5) A certification regarding the identity of each property owner along the right-of-way of the road together with an indication as to whether such property owner joins in the submission for approval of the plans and releases any right to assert any claim such property owner might otherwise have against any person, persons, partnership, corporation or political subdivision by reason of the dedication of such road.

Plans and attachments, after filing with the Town Board, shall be distributed as follows:

- 1) One with the Town Highway Superintendent.
- 2) One with the Town Planning Board.
- 3) One with the Town Supervisor.
- 4) Two with the Town Clerk's permanent files.

Prior to action by the Town Board, the Town Highway Superintendent and the Town Planning Board shall review the plans of the proposed dedication. The Planning Board shall, within thirty (30) days, indicate its recommendations to the Town Highway Superintendent who shall, within sixty (60) days, make an inspection of the road. He may also request a Professional Engineer to accompany him, the cost of whose services shall be borne by the person or persons proposing dedication of the road. At the time of this inspection or within fifteen (15) days thereafter, the Superintendent shall notify the persons proposing dedication of the road of any deficiencies with respect to this law or of any additional requirements he may choose to impose as a result of the authority granted him by this Law. The applicant shall have time as necessary to respond and/or amend plans submitted to the Town of Delaware, but if more than one year elapses between the submission of original and amended plans, the amended submission shall require the filing of additional fees. Amended plans shall also require an additional inspection to determine whether deficiencies have been corrected.

Once the Town Highway Superintendent is satisfied that the road proposed for dedication will meet the requirements of this Law and he has inspected the road in order to ascertain the same, he shall make a recommendation to the Town Board to accept the road as a Town Highway.

Upon receipt of the Highway Superintendent's recommendation to accept a road as a Town Highway, the Town Board shall within sixty (60) days, vote to accept or reject the road. The Town Board may make its own inspection of the road in arriving at its decision. In the event the plans are rejected for any reason, the applicant shall be notified within fifteen (15) days to reasons why and how the road can be brought into compliance with the Law. The applicant may request a conference with the Town Board and Highway Superintendent to review the reasons why the plans were rejected and how it can be corrected, which conference shall take place at the earliest date convenient to the Town Board.

Upon a vote by the Town Board to accept the road the affected property owners shall deliver the deed(s) for the right-of-way, which deeds shall be of a bargain and sale type with covenant against grantors acts. Lands transferred to the Town shall be in fee simple. Any drainage easements shall be included in a deed. All deeds shall be recorded at no cost to the Town Board in final acceptance of the road by the Town, the Town Board shall be governed by the requirements of the New York State Town law and various Highway laws.

Section Six: Variations - Variations to the standards contained herein may be approved by the Town Board upon recommendation of the Town Highway Superintendent in order to accommodate unusual or severe topographic conditions. No approved variations, however, shall constitute a change in the basic specifications set forth as applied to other roads.

Section Seven: Violations - Any person who violates any provision of this law shall be deemed to have committed an offense against this Law and also shall be liable for said violation.

Any person, firm, or corporation violating this Law shall be subject to a civil penalty enforceable and collectable by the Town in the amount of \$350.00 for each offense; such penalty shall be collectable by and in the name of the Town.

Each day of continued violation after notice thereof shall constitute a separate violation and offense.

In addition to the above provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this Law.

Section Eight: Repealer - This Law shall supersede all prior local laws, ordinances, rules and regulations relative to the standards for roads and highways proposed for dedication to the Town of Delaware and they shall be, upon the effective date of this local law, null and void.

Section Nine: Effect of invalidity - If any clause, sentence, phrase, paragraph or any part of this Law shall for any reason be adjusted finally by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby intended to be the legislative intent that the remainder of this Law would have been adopted had any such provisions not been included.

Section Ten: Effective date - This Law shall take effect immediately upon filing in the office of the Secretary of State.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, resulting as follows:

Supervisor William Moran voting aye,
Councilwoman Eva Boyle voting aye,
Councilman Bradley Mallett voting aye, and
Councilman Arnold Baum voting aye.

The resolution was thereupon declared duly adopted (as Resolution #72-2003 on August 20, 2003)
AYES-4, NAYS-0.

LOCAL LAW #2-2003 – PROVIDING A PARTIAL REAL PROPERTY TAX EXEMPTION TO CERTAIN PERSONS OVER 65 YEARS OF AGE:

The following resolution was introduced by Councilman Connors, seconded by Councilman Mallett, to wit:

SECTION I. A partial real property tax exemption for certain persons over 65 years of age

A. Real property in the Town of Delaware owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation by the Town to the extent of fifty per centum of the assessed valuation thereof. Such exemption shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.

B. The real property tax exemption on real property owned by husband and wife, one of whom is 65 years of age or over, once granted, shall not be rescinded by the Town solely because of the death of the older spouse so long as the surviving spouse is at least 62 years of age.

SECTION II. Limitations on exemptions

No exemptions shall be granted:

A. Unless the income of the owner or the combined income of the owners for the income tax year immediately preceding the date of making of the application for exemption conforms with one of the following thresholds and then the exemption granted shall only be to the extent of the percentage corresponding to the applicable income threshold:

Percentage of Assessed Value
Annual Income

Exempt from Taxation

0 but Less than \$17,500		50%
\$17,500 or more but less than	\$18,500	45%
\$18,500 or more but less than	\$19,500	40%
\$19,500 or more but less than	\$20,500	35%
\$20,500 or more but less than	\$21,500	30%
\$21,500 or more but less than	\$22,500	25%
\$22,500 or more but less than	\$23,500	20%

Income tax year shall mean a twelve (12) month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts or inheritances. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.

B. Unless the title of the property shall have been vested in the owner or all of the owners of the property for at least twenty-four (24) consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four (24) consecutive months provided further, that in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four (24) consecutive months and provided further that where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, and further provided that where a residence is sold and replaced with another within one year and is in the same assessment unit, the period of ownership of the property for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purposes of this Section. Notwithstanding any other provision of law, where a residence is sold and replaced with another within one year and both residences are within the State, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation as provided in this Local Law.

C. Unless the property is used exclusively for residential purposes.

D. Unless the property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

SECTION III. Notice of eligibility

The Town shall notify or cause to be notified, each person owning residential real property in the Town of the provisions of this Local Law. The provisions of this Section may be met by a notice or legend sent on or with each tax bill to such persons reading, "You may be eligible for, senior citizen tax exemptions. Senior citizens have until month day year to apply for such exemptions. For information please call or write followed by the name, telephone number and/or address of the person or department selected by the Town to explain the provisions of this Local Law. Failure to notify, or cause to be notified any person who is in fact, eligible to receive the exemption provided by this Local Law or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

SECTION IV. Annual application required

Application for such exemption must be made by the owner, or all of the owners of the property on forms prescribed by the State Board of Equalization and Assessment to be furnished by the Town Assessor's office and shall be filed in the Assessor's office on or before the taxable status date of the Town.

SECTION V. Notice to applicants

At least sixty (60) days prior to the appropriate taxable status date, the Town Assessor shall mail to each person who was granted exemption pursuant to this Chapter on the latest completed assessment roll an application form and a notice that such application must be filed on or before the taxable status date and be approved in order for the exemption to be granted. The assessing authority shall, within three (3) days of the completion and filing of the tentative assessment roll, notify by mail any applicant who has included with his or her other application at least one self-addressed prepaid envelope, of the approval or denial of the application; provided, however, that the assessing authority shall, upon the receipt and filing of the application, send by mail notification of receipt to any applicant who has included two of such envelopes with the application. Where an applicant is entitled to a notice of denial pursuant to this subdivision, such notice shall be on a form prescribed by the State Board of Equalization and Assessment and shall state the reasons for such denial and shall further state that the applicant may have such determination reviewed in the manner provided by law. Failure to mail any such application form and notice or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

SECTION VI. Penalties and forfeiture

Any conviction of having made any willful false statement in the application for such exemption shall be punishable by a fine of not more than Two Hundred Fifty Dollars

(\$250.00) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.

SECTION VII. Effect of invalidity

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be adjusted finally by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby intended to be the legislative intent that the remainder of this Local Law would have been adopted had any such provisions not been included.

SECTION VIII. Effective date.

This Local Law shall take effect immediately upon filing in the office of the Secretary of State.

The question of the adoption of the foregoing resolution was then duly put to a vote on roll call, resulting as follows:

Supervisor William Moran voting aye,
Councilperson Eva Boyle voting aye,
Councilperson Kevin Connors voting aye,
Councilperson Arnold Baum voting aye,
Councilperson Bradley Mallett, Jr. voting aye.

The resolution was thereupon declared duly adopted (as Resolution #83-2003, October 15, 2003).

AYES-5, NAYS-0.