

# **TOWN OF DELAWARE**

SULLIVAN COUNTY, NEW YORK

## **SUBDIVISION REGULATIONS**

**As Amended, May 2006**

# **Town of Delaware Subdivision Regulations**

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# **Town of Delaware Subdivision Regulations**

## **ARTICLE I — GENERAL PROVISIONS**

### **101 – Title and Short Title**

This Law provide for the regulation of subdivisions within the Town of Delaware, Sullivan County, New York, and may be cited as the "Town of Delaware Subdivision Regulations."

### **102 – Authority**

This Law is adopted under the authority provided the Town of Delaware by §271 of the New York State Town Law.

### **103 – Purposes**

This Law is adopted for the following purposes;

103.1 – Promoting the orderly growth and development of the Town in accord with the Town of Delaware Comprehensive Plan.

103.2 – Providing for the health, safety, and welfare of Town residents and preservation of the environment.

103.3 – Minimizing foreseeable maintenance and improvement problems as well as economic burdens of the land associated with development of land.

### **104 – Jurisdiction**

This Law shall apply to all subdivisions of land, as defined herein, made on or after the effective date of this Law.

### **105 – Interpretation, Conflict and Separability**

#### **105.1 – Interpretation**

The provisions of this Law in their interpretation and application shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

#### **105.2 – Conflict**

This Law is not intended to interfere with, abrogate, or annul any other Ordinance, Law rule or regulation, statute or provision of law. Where any of the provisions of this Law impose restrictions different than any other Ordinance, Law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This Law, however, shall replace, in their entirety, those Subdivision Regulations previously in effect in the Town of Delaware.

#### **105.3 – Separability**

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If any part or provision of this Law or application thereof to any person or circumstances is judged invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part, provision or application.

### **106 – Variations and Waivers**

106.1 – The Planning Board shall have the power to authorize variations and waiver from the requirements of this Law.

106.2 – Applications for such variations shall be submitted in writing by the subdivider at the time the preliminary plan is filed for the consideration of the Board. The application shall state fully the grounds for the application and all the facts relied upon by the subdivider.

106.3 – The Board may, by resolution, authorize a variation or waiver from this Law when, in its opinion, unreasonable hardship will result from strict compliance therewith, provided that the resolution shall state in it the reasons on which the Board bases its finding that unreasonable hardship will result from strict compliance with this Law.

106.4 – Variation may be granted only in accord with the following:

- A. The variation or waiver is found to be in the interest of the public health, safety and general welfare.
- B. The variation or waiver would not change the character of the area or nullify any aspect of the Town Zoning Law and would preserve the purposes and intent of this Law.
- C. Where the Board finds that, due to the special circumstances of a particular plan, the requirement of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent to or in proximity of the proposed subdivision it may waive such requirements, subject to appropriate conditions.
- D. Economic hardships or increased costs of development related to the above shall not be cause for a variation or waiver.

106.5 – In authorizing a variation or waiver, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this Law.

### **107 – Violations and Penalties**

#### **107.1 Violations**

No person shall subdivide real property in the Town of Delaware without first filing a plan thereof in the Office of the County Clerk and no plan of a subdivision of land showing lots, blocks or sites with or without streets or highways, shall be filed in the Office of the County Clerk until it has been approved by the Town

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of Delaware Planning Board. Any person violating these provisions shall be subject to the penalties provided by §268 of the New York State Law.

### **107.2 Enforcement**

A violation of this Law is hereby declared to be an offense punishable by a fine not to exceed three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense both of which are committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six (6) months, or both . However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Law shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

### **107.3 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, converted, or maintained or any building, structure or land is used in violation of this Law, the Town Board and/or Planning Board, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business or use in or about such premises; and upon the failure or refusal of Town officials to institute any such appropriate action or proceedings for a period of ten (10) days after written request by a resident taxpayer of the Town of Delaware so to proceed, any three (3) taxpayers of the Town residing in the district wherein such violation exists, who are jointly or separately aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such Town Officials are authorized to do so.

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## ARTICLE II — DEFINITIONS

### 201 – General

As used in this Law, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will" for the purpose of this Law are defined as mandatory.

For the purpose of this Law, the following terms shall be considered interchangeable:

201.1 – The terms Town and Town of Delaware

201.2 – The terms subdivider and developer; subdivision, development and land development

Unless otherwise expressly stated, the following definitions shall, for the purpose of this Law, have the meaning herein indicated. Any pertinent word or term not a part of this listing shall be construed to have its legal definition.

### 202 – Glossary of Terms

The following terms shall have the following meaning:

Alley: A permanent service way providing a secondary means of access to abutting lands.

Applicant: A landowner, subdivider or developer, as hereinafter defined, who has filed an application for development, including his heirs, successors and assigns.

Board: The Town of Delaware Planning Board

Berm or Shoulder: That portion of a roadway between the outer edge of the traveled way or pavement and the point of intersection of the slope lines at the outer edge of the roadway, for the accommodation of stopped vehicles and for lateral support.

Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, rail-road rights-of-way, shorelines or watercourses, or boundary lines of the Town.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature. A building shall not include such structures as billboards or fences; or structures with interior surfaces not normally accessible to human use, such as gas tanks, grain elevators, coal bunkers or similar structures. A building may accommodate more than one family and have more than one dwelling unit, and be used for residential, commercial or manufacturing purposes. Mobile homes shall be considered buildings.

Cartway: The portion of a street right-of-way paved or unpaved intended for vehicular use, including the travelway and shoulders.

Clear Sight Triangle: An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

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Common Open Space: A parcel or parcels of land or an area of water, or a combination of land and water, within a development site and designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement, rights-of-way or similar public facilities.

Common Property: All of the land and improvements part of a subdivision or land development which is to be jointly owned and maintained by the lot owners, lessees and/or members of the development and identified as such by the subdivider on any plan offered to the Town for approval.

Cul-de-sac: A minor street intersecting another street at one end and terminated at the other by a vehicular turn-around.

Dedication: The appropriation of land by its owner, for any general or public uses. This shall not be construed as acceptance by the Town of responsibility for maintenance and/or ownership of such land and attendant facilities, except where appropriate legal documents specifically relating to the same have been executed.

Developer: The owner, or authorized agent of the owner; including but not limited to, any individual, partnership or corporation that undertakes a subdivision or land development or any of the activities covered by this Law, particularly the preparation of a subdivision plan showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though the personnel involved in successive stages of this project may vary.

Drainage Easement: An easement required for installation of storm water sewers, or drainage ditches, and/or required for the preservation or maintenance of a natural stream or water course or other drainage facility.

Driveway: A defined private access from an individual lot to a public highway or approved private right-of-way.

Dwelling: A building arranged, intended, designed, or used, as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or tourist home.

- A. Single-Family Detached – A building arranged, designed and intended to be used for and occupied exclusively by, one family.
- B. Two-Family – A building arranged, designed and intended to be used for and occupied by two families living independently and having no cooking or sanitary facilities in common.
- C. Multiple – A building arranged, designed and intended to be used for and occupied by three (3) or more families living independently and having no cooking or sanitary facilities in common.

Dwelling Unit: Rooms in a dwelling structure, including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

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Easement: A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public or private purpose, and within which the lessee or owner of the property shall not erect any permanent structure, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

Improvements: Those physical changes to the land necessary to produce usable and desirable lots from raw acreage; including, but not limited to, streets, pavements, curbs, storm and sanitary sewers, sewage treatment systems, wells and water distribution systems, gutters, drains, and betterments to existing water courses, sidewalks, street signs, crosswalks, shade trees, sodding or seeding, street name signs and monuments.

Interior Streets (Access Drives): Streets intended to provide access to lots bordering a public right-of-way to which access has been limited or prohibited, and generally running parallel to such right-of-way.

Lot: A tract or parcel of land (held in single or joint ownership, not necessarily shown on a duly recorded map,) which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed, or required. (The term lot shall also mean parcel, plot, site, or any similar term.)

Lot Area: The total number of square feet or acres in the lot.

Lot Depth: The average of the depths of a lot at the two side lot lines.

Lot Improvement Subdivision: The realignment of lot lines provided the resulting lots are not made more nonconforming; or the transfer of land to increase the size of an existing lot provided any lot proposed for a reduction in size complies with all provisions of this Law and the Town of Delaware Zoning Law, and no new lots are created; or the combination or reallocation of small lots into a larger lot or lots.

Lot Line, Front: The line separating the lot from a street.

Lot Line, Rear: The lot line opposite and most distant from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.

Lot Width: The average of the width of a lot at the building setback line required by the Town of Delaware Zoning Law and the rear lot line.

Major Subdivision: Any subdivision which is not a minor subdivision, or which is a recreational subdivision or land development or a mobile home park. Any subdivision which involves the utilization of off-site sewage disposal systems or water supplies, the construction of any streets, storm water control facilities or other improvements, or the utilization of clustering techniques shall also be considered a major subdivision, regardless of the number of lots or other considerations.

Minor Subdivision: A subdivision containing not more than four (4) to ten (10) lots, or a cumulative development on a lot-by-lot basis for a total of four (4) to ten (10) lots, of any tract of land of record as of June 8, 1989, the effective date of the previous Subdivision Regulations, where no new off-site sewage disposal

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systems or water supplies, the construction of any streets, storm water control facilities or other improvements are required.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile Home Lot: Land occupied or to be occupied by a mobile home in a mobile home park, improved with the necessary utility connections and other appurtenances; and, said lot being specifically designated by division from other lots in the mobile home park.

Mobile Home Park: A parcel or contiguous parcels of land under single ownership which has been planned and improved for the placement of two (2) or more mobile homes for non-transient use.

Modular Home: A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, which arrives at a site complete and ready for installation except for minor and incidental unpacking and assembly operations, and which is installed on a permanent foundation and is not intended for repeated towing.

Pavement: Improvement of the traveled portion of a roadway with a hard, solid surface material conforming to the standards of the Town of Delaware Road Law.

Person: Any individual, firm, trust, partnership, public or private association or corporation, or other entity.

Plan: A map or chart indicating the subdivision or re-subdivision of land, which in its various stages of preparation can include the following:

- A. Sketch Plan – An informal plan, identified as such with the title "Sketch Plan" on the map, indicating salient existing features of a tract and its surroundings and the general layout of the proposed subdivision, to be used as a basis for consideration by the Town Planning Board.
- B. Preliminary Plan – A complete plan prepared by a registered professional engineer or licensed land surveyor, identified as such with the wording "Preliminary Plan" in the title, accurately showing proposed streets and lot layout and such other information as required by this Law.
- C. Final Plan – A complete and exact plan, identified as such with the wording "Final Plan" in the title, with licensed land surveyor's seal affixed, and prepared for official recording as required by this Law, to define property rights and proposed streets and other improvements.

Planning Board: The Town of Delaware Planning Board.

Professional Engineer or Engineer: A person registered and licensed to practice engineering within the State of New York.

Right-of-Way: Land reserved for use as a street, alley, interior walk, or for other public or private purposes.

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SEQRA: The State Environmental Quality review Act, Article 8 of the Environmental Conservation Law and the implementing regulations relating thereto.

Setback or Building Line: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks shall be measured from the edge of the highway right-of-way and other setbacks from property lines.

Sewage Disposal, Off-Site (Central, Community): A sanitary sewage collection and treatment system in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system which may be publicly or privately owned and operated. A system designed to serve a two-family dwelling or two dwelling units located on the same property or adjacent properties shall not be considered as central sewerage and in such a case all development standards will apply the same for each dwelling or unit as any single family unit.

Sewage Disposal, On-site: A single system of piping, tanks or other facilities serving only a single family dwelling on a single lot and disposing of sewage in whole or in part into the soil.

Shoulder: The improved portion of a street immediately adjoining the travelway for parking and for access to abutting properties.

Sight Distance: The distance one can see in any direction from a given point on a street.

Street: A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley. "Public rights-of-way" shall be those open to the general use of the public, not necessarily publicly dedicated.

- A. Major Traffic Streets – Those streets servicing large volumes of comparatively high-speed and long-distance traffic, and including roads facilities classified as main and secondary highways by the New York Department of Transportation.
- B. Collector Streets – Those streets which, in addition to giving access to abutting properties, intercept minor streets and provide routes, carrying considerable volumes of traffic, to community facilities and to major traffic streets.
- C. Minor Streets – Those streets which primarily provide access to abutting properties.
- D. Marginal Access Streets – Those streets parallel to major traffic or collector streets and providing access primarily to abutting properties.

Street Width: The shortest distance between the lines delineating the right-of-way of a street.

Subdivision: A division or re-division of a lot, tract, or parcel of land by any means into tracts, parcels or other divisions of land, including changes in existing lot lines, for any purpose, excluding Lot Improvements as provided in Section 308 hereof and Natural Subdivisions where the tracts, parcels or divisions are already defined by a public road, railroad or other major feature of a similar nature. Proposed Natural Subdi-

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visions shall, prior to recording, be submitted to the Town of Delaware Planning Board for a determination that they meet such criteria and be processed in the same manner as Lot Improvements.

Surveyor (Licensed Land): A land surveyor licensed by the State of New York or a Professional Engineer who is state-approved to provide similar services.

Town Engineer: A Professional Engineer officially retained by the Town Board or consulting with the Town Board on a temporary basis.

Travelway: The portion of the cartway used for steady movement of vehicles, not including the shoulders.

Water Supply, Off-Site (Central, Community): A public or private utility system designed to supply and transmit drinking water from a common source to two (2) or more dwelling units or uses in compliance with NY State Department of Health regulations.

Water Supply, On-site: A system for supplying and transmitting drinking water to a single dwelling or other use from a source located on the same lot, and in compliance with NY State Department of Health regulations if such compliance is required.

Watercourse: A discernible, definable natural course or channel along which water is conveyed ultimately to streams and/or rivers at lower elevations. A watercourse may originate from a lake or underground spring(s) and be permanent in nature, or it may originate from temporary sources such as runoff from rain or melting snow.

Wetlands: An area of land where the presence of water (at least during part of the year) determines the soil characteristics of the site and the species of vegetation growing on the site; said areas being regulated by the NYS DEC and the U.S. Army Corps of Engineers.

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### **ARTICLE III -- PLAN SUBMISSION AND REVIEW REQUIREMENTS**

#### **301 – Procedures and Requirements for Minor Subdivisions**

The following procedures and requirements shall apply to minor subdivisions. Lot improvement subdivisions shall be processed in accord with §308. All other subdivisions and re-subdivisions, regardless of the total number of lots involved, shall be processed as major subdivisions according to the procedures and requirements specified in §302 through §307 of this Law.

##### **301.1 – Application Requirements**

Any person proposing to create a minor subdivision shall submit along with the plans required in 301.2 below, five (5) copies of an application for minor subdivision approval. This application shall be on the form provided by the Planning Board and shall, at a minimum, specify and/or include:

- A. The name, address and telephone number of the property owner of record or his or her agent. If an agent shall be involved, authorization from the owner(s) shall be provided.
- B. The name or number of the road where the proposed subdivision is to be located.
- C. The name, address and telephone number of the surveyor or engineer preparing the subdivision plans.
- D. The type of water supply proposed.
- E. The type of sewer system proposed.
- F. The required fee or receipt for the same from the Planning Board Secretary or Town Clerk.

##### **301.2 – Plan Requirements**

The subdivider shall submit five (5) copies of the Final Plan including one original on mylar and required supplementary data for the proposed subdivision. This plan shall be prepared by a Licensed Land Surveyor and shall show all the lots proposed to be created. The Final Plan shall be drawn by a Licensed Land Surveyor to the County Clerk's dimensional and other filing specifications and shall meet the following requirements:

- A. Name of subdivision.
- B. Name, address, and telephone number of owner of record.
- C. Name, address, and telephone number of Developer if different from land owner.
- D. Name, address, license number, seal and signature of the Licensed Land Surveyor responsible for the preparation of the subdivision plan and certification as to the accuracy of the survey and plans giving date of survey and date drawing was completed. Such certification shall also include confor-

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mity with State Health regulations and all regulations of the Town of Delaware with respect to sewage disposal.

- E. Date, including the month, day and year that the Final Plan for the minor subdivision was completed and the month, day and year of each Plan revision along with a description of the revision.
- F. The section, block and lot number reference of the latest source(s) of title to the land being subdivided.
- G. North arrow (true or magnetic).
- H. Graphic scale and written scale.
- I. Lots numbered in consecutive order. The map shall depict the proposed subdivision as a part of the contiguous holdings of the subdivider, and show adjacent lots already taken from the parcel.
- J. A plan of the area proposed to be subdivided, including the tract boundaries street lines and names, lot lines, rights-of-way or easements (existing and/or proposed, if any ).
- K. Sufficient data, acceptable to the Township, to determine readily the location, bearing and length of every boundary, street or lot line. All dimensions shall be shown in feet and hundredths of a foot. All bearings shall be shown to the nearest one second of the arc.
- L. The area of each lot or parcel shall be shown within each lot or parcel.
- M. Reference monuments and/or lot markers shall be shown on the plan and shall be placed as required by this Ordinance.
- N. Any existing buildings located on the tract being subdivided shall be planted to demonstrate compliance with setback requirements.
- O. Building setback lines. (Not required for lot improvements.)
- P. The name and/or number and pavement width and right-of-way lines of all existing public streets and the name, location and width of all other roads within or abutting the property.
- Q. Names of adjoining property owners including those across adjacent roads, and the names of all adjoining subdivisions including those across adjacent roads.
- R. Water courses, lakes, streams, and ponds with names. (Not required for lot improvements.)
- S. Wetlands. (Not required for lot improvements .)
- T. Site data including, total acreage, number of lots, size of any remaining acreage in the tract from which lots, existing zoning district and tax map number.
- U. Contour lines at an interval of not greater than twenty (20) feet as superimposed from the latest U.S.G.S. quadrangle or from a field survey. A minimum of two contour lines are required to show di-

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rection and amount of slope. (Not required for lot improvements or lots containing existing sewage systems.)

- W. Location of all flood hazard areas as shown on the most recent FIA/FEMA mapping. (Not required for lot improvements.)
- X. The location and extent of various soil types by SCS classification for each type, and locations of soil test pits and wells. (Not required for lot improvements or lots containing existing sewage systems.)
- Y. The location of any soil test pits and/or percolation tests. The logs of the test pit evaluations and the results of the percolation tests shall accompany the plan.
- Z. The proposed areas for location of wells and subsurface sewage disposal fields when on-site disposal is proposed.
- AA. A key map for the purpose of locating the property being subdivided.
- BB. Approval/signature blocks for the Planning Board and NYS Department of Health.
- CC. A title block on the lower right corner.

### 301.3 – Submission

The subdivider shall submit the application for minor subdivision approval, along with the required copies of the plan and supporting documentation to the Planning Board at a duly convened meeting of the Town Planning Board.

### 301.4 – SEQRA

The Applicant shall submit all necessary documents for compliance with the State Environmental Quality Review Act

### 301.5 – Agricultural Data Statement

The Minor Subdivision application shall include an Agricultural Data Statement as required by §283-a of the NYS Town Law in cases where the subdivision involves property within an agricultural district containing a farming operation or involves property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district. Agricultural districts are such districts designated in accord with the NYS Agriculture and Markets Law, Article 25-AA, Agricultural Districts Law, as amended. If the proposed Minor Subdivision does not meet the criteria requiring an Agricultural Data Statement, the applicant shall provide a certification to such effect. Agricultural Data Statements shall be submitted by the applicant on the form provided by the Planning Board and shall be processed in accord with §283-a of the NYS Town Law.

### 301.6 – Procedure

Minor Subdivision applications shall be processed in accord with §309 of this Law. Preliminary plans shall not be required for minor subdivisions.

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### 302 – General Procedures for Major Subdivisions

#### 302.1 – Sketch Plan

A Sketch Plan may be submitted at a duly convened meeting of the Town Planning Board by an applicant for the purpose of classification and preliminary discussion of the proposed subdivision. No action will be taken by the Board with respect to a Sketch Plan and no discussions concerning the same shall later be construed to have implied approval of any sort.

#### 302.2 – Preliminary Plan

Six (6) copies of an application and Preliminary Plan shall be required for all proposed major subdivisions. The Preliminary Plan shall include all the items identified in §304 below and shall be submitted to the Planning Board Secretary or Town Clerk at least seven (7) 15 days prior to the meeting at which the Plan will be formally presented. The Planning Board Secretary or Town Clerk, as the case may be, shall note receipt of the application and collect any fees due. This application shall be on the form provided by the Planning Board and shall, at a minimum, specify and/or include:

- A. The name, address and telephone number of the property owner of record or his or her agent. If an agent shall be involved, authorization from the owner(s) shall be provided.
- B. The name or number of the road where the proposed subdivision is to be located.
- C. The name, address and telephone number of the surveyor preparing the subdivision plans.
- D. The type of water supply proposed.
- E. The type of sewer system proposed.
- F. The section, block and lot number reference of the latest source(s) of title to the land being subdivided.
- G. The required fee or receipt for the same from the Planning Board Secretary or Town Clerk.

#### 302.3 – SEQRA

The Applicant shall submit all necessary documents for compliance with the State Environmental Quality Review Act

#### 302.4 – Agricultural Data Statement

The Major Subdivision application shall include an Agricultural Data Statement as required by §283-a of the NYS Town Law in cases where the subdivision involves property within an agricultural district containing a farming operation or involves property with boundaries within five hundred (500) feet of a farm operation located in an agricultural district. Agricultural districts are such districts designated in accord with the NYS Agriculture and Markets Law, Article 25-AA, Agricultural Districts Law, as amended. If the proposed Minor Subdivision does not meet the criteria requiring an Agricultural Data Statement, the applicant shall provide

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a certification to such effect. Agricultural Data Statements shall be submitted by the applicant on the form provided by the Planning Board and shall be processed in accord with §283-a of the NYS Town Law.

### **302.5 – Procedure**

Major Subdivision applications shall be processed in accord with §309 of this Law.

### **302.6 – Improvements**

After receiving approval of a Preliminary Plan, (or when conditions are removed), the subdivider may, in accord with §305, install or guarantee the installation of the improvements required by this Law and commence the preparation of Final Plans.

### **302.7 – Final Plans**

Following the installation and inspection of improvements or preparation of satisfactory guarantees for their installation and maintenance, the subdivider may submit Final Plans to the Town, which shall be processed in accord with §309 of this Law.

### **302.8 – Approval of Plan in Sections**

See §309.4,B and §309.8 of this Law.

## **303 – Sketch Plans for Major Subdivisions**

A Sketch Plan should be at a scale sufficient to show the entire tract on one (1) sheet, and should show or include the following:

303.1 – The location of that portion which is to be subdivided in relation to the entire tract.

303.2 – All existing structures and wooded areas within the portion to be subdivided.

303.3 – The name of the owner and of all adjoining property owners as disclosed by the most recent deed or tax records.

303.4 – All streets or roads, streams, water, sewage and gas and power lines within five hundred (500) feet of the subdivision.

303.5 – Boundaries of total tract and acreage contained within it.

303.6 – North Point, scale and date.

303.7 – A location map with sufficient information to clearly show the location of the property.

## **304 – Preliminary Plan Requirements for Major Subdivisions**

The Preliminary Plan shall be clearly marked “preliminary plan” and shall be clearly and legibly drawn by a Licensed Land Surveyor to the County Clerk’s dimensional and other filing specifications. The Plans and supporting documentation shall contain the following information:

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304.1 – Proposed name of the subdivision. This name shall not duplicate in spelling or pronunciation any recorded subdivision within the Town of Delaware.

304.2 – Name, address and telephone number of the owner of record.

304.3 – Name, address and telephone number of developer if different from land owner.

304.4 – Name, address, license number, seal and signature of the Licensed Land Survey responsible for the preparation of subdivision plan, and the name, address, license number, seal and signature of the Professional Engineer responsible for the preparation of supporting documents.

304.5 – Date, including the month, day and year that the Preliminary Plan was completed and the month, day and year for each Plan revision along with a description of the revision.

304.6 – Location by Town, County and State.

304.7 – A key map for the purpose of locating the property being subdivided and showing the relation of the property, differentiated by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries, zoning districts, and water courses.

304.8 – North point, date and graphic scale.

304.9 – Boundaries of entire tract and it's total acreage.

304.10 – Names of present adjoining property owners and the names of all adjoining subdivisions, if any, including property owners and/or subdivisions across adjacent roads.

304.11 – Proposed and existing street and lot layout on immediately adjacent tracts including names and right-of-way and pavement widths of all streets and/or roads.

304.12 – Existing man-made or natural features including but not limited to the following:

- A. Water courses, ponds and lakes, with name of each.
- B. Buildings, structures, parks and public grounds, and certified historic sites or structures within five hundred (500) feet of the proposed development.
- C. Approximate location of tree masses.
- D. Location and size of culverts with the direction of water flow.
- E. New York State designated wetlands.
- F. Approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power and transmission lines, gas lines, and all other items above or below ground with direction of flow and pressure

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G. All other significant man-made or natural features within the proposed subdivision and one hundred (100) feet beyond the boundaries of the proposed subdivision and/or development.

304.13 – Location of flood zones as shown on the most recent FIA/FEMA mapping.

304.14 – Location and extent of various soil types by SCS classification.

304.15 – In cases where on-site sewage disposal is proposed, the location and results of soil test pits and percolation tests.

304.16 – Location, width and purpose of any existing or proposed rights-of-way or other easements.

304.17 – Contour lines, at an interval of not more than five (5) feet. Contour lines at a closer intervals may be required if more detail is deemed necessary in cases of steep slopes or other site characteristics.

304.18 – The full plan of the proposed subdivision and/or development, including:

- A. Location and widths of all streets, suggested types (major, collector, minor) and all rights-of-way with a statement of any conditions governing their use. The street proposals shall be accompanied by a submission of plans as required by the Town Road and Street Encroachment Ordinances or Laws, including, construction materials, profiles, cross-sections, and preliminary designs for bridges and culverts.
- B. Proposed street names which shall not duplicate existing names in the Town of Delaware by spelling or pronunciation.
- C. Building setback lines.
- D. Lot and/or parcel sizes.
- E. Lot numbers.
- F. A statement of number of lots and/or parcels.
- G. A statement of the intended use of all non-residential lots and/or parcels.
- H. A statement of the total acreage in the proposed subdivision and/or development.
- I. County tax assessment property number.
- J. All drainage easements marked as such.
- K. Approximate final grades in areas of cut or fill.
- L. All open space easements and parcels to be dedicated to the public, or reserved for their use, or to be reserved by covenant for residents, shall be shown and marked as such.

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M. Any and all other significant information.

304.19 – Approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power and transmission lines, gas lines, and all other items above or below ground with direction of flow and pressure.

304.20 – Proposed covenants and restrictions.

304.21 – Evidence of water supply. In cases where no public water supply is planned as part of the subdivision, the subdivider shall supply acceptable evidence of the availability of other potable water source. This evidence may be in the form of logs from test wells by the subdivider, or logs from existing wells established by professional well drillers.

304.22 – A letter from each utility company as well as municipal water and sewer providers servicing the area indicating that the utility company is aware of and will be able to provide service to the proposed subdivision and stating the conditions under which service will be provided.

304.23 – Erosion and sedimentation plan prepared by a Professional Engineer in cooperation with the Sullivan County Conservation District, if required by the Planning Board.

304.24 – Storm water management plan prepared by a Professional Engineer in cooperation with the Sullivan County Conservation District, if required by the Planning Board.

304.25 – Certification by a Professional Engineer as to the conformity of the plans with the requirements of the New York State Department of Health and the Town of Delaware pertaining to sewage disposal.

304.26 – Zoning data, including all of the following, when applicable:

- A. Zoning district designations.
- B. Zoning district boundary lines transversing the proposed subdivision and/or development.
- C. Zoning district boundary lines within one thousand (1000) feet of the proposed subdivision and/or development, shown on location map.

304.27 – A title block on the lower right corner of the Preliminary Plans.

304.28 – Any other information deemed necessary by the Planning Board.

### **305 – Requirements for Guarantee and Construction of Improvements**

305.1 – Methods to be Followed

Following approval of the Preliminary Plan, the subdivider, in a manner consistent with §277 of the New York State Town Law, shall provide for the installation of the required improvements (those physical additions and changes which may be necessary to provide useable and desirable lots). Prior to requesting Final Plan approval the subdivider must:

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- A. Install all the required improvements, or
- B. File with the Town of Delaware a performance guarantee to ensure installation and construction of all required improvements.

### 305.2 – Performance Bond or Other Security

This §305.2 is intended to be consistent with §277 of the New York State Town Law and the Town hereby incorporates all authorities and requirements contained therein as part of this Law.

- A. **Furnishing of Security** – As an alternative to the installation of infrastructure and improvements as above provided, prior to requesting final plan approval, a performance bond or other security sufficient to cover the full cost of same, as estimated by the Planning Board or Town Engineer as may be designated by the Planning Board to make such estimate, where such estimate is deemed acceptable by the Planning Board, shall be furnished to the Town by the owner.
- B. **Plan Sections** – In the event that the owner shall be authorized to file the approved plan in sections, as provided in §276.(b) of the New York State Town Law, approval of the plan may be granted upon the installation of the required improvements or in the furnishing of security covering the costs of such improvements in the section of the plan to be so approved. The owner shall not be permitted to begin construction of buildings in any other section until the required improvements have been installed in such section or a security covering the cost of such improvements has been provided and a plan relating to such section has been filed in the Office of the County Clerk.
- C. **Form of Security** – Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form and manner of execution, and the Town Engineer as to sufficiency, and shall be limited to:
  - 1. A performance bond issued by a bonding or surety company authorized to do business in this State;
  - 2. The deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this State;
  - 3. An irrevocable letter of credit from a bank located and authorized to do business in this State;
  - 4. Obligations of the United States of America; or
  - 5. Any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements.

If not delivered to the Town, such security shall be held in a Town account at a bank or trust company.

- D. **Term of Security** – Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three (3) years; provided, however, that the term of such performance bond or security agreement may be extended by the Planning Board with consent of the parties thereto. If the Planning Board shall decide at any time during the term of

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the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security, or that the required improvements have been installed as contemplated to an extent to warrant reduction in the amount of said security, and upon approval by the Town Board, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the reduced amount will cover the full cost of the amended list of improvements required by the Planning Board.

- E. Default of Security Agreement – In the event that any required improvements have not been installed as provided in this Law within the term of such security agreement, the Town Board may thereupon declare the said performance bond to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such security as are commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.
- F. Return of Security – When the improvements have been completed and approved for conformity with this Law by the Town Engineer or other qualified individual designated by the Town, the security shall be released and returned. When any of the required improvements have been completed and approved or materials for the same have been secured on-site, a portion of the security commensurate with the cost of these improvements, may be released and returned.

### 305.3 – Fees to Cover Inspection and Related Costs

Prior to the certification of any improvements or release of any guarantee, the subdivider shall pay all inspection and related costs (for professional services, meetings, advertisements and expenses) associated with the improvements or guarantees. These costs will be assessed as a special fee apart from the regular fees provided for in §308 of this Law. Said payment shall be made to the Town.

### 305.4 – Improvements Construction

This §305.4 shall apply to all construction of improvements whether the improvements are completed prior to final plan approval or security is provided.

- A. Schedule – The subdivider shall, prior to the initiation of construction of any required improvements, submit to the Town, a schedule of construction for all required improvements.
- B. Inspections – Based upon the construction schedule and the nature of the required improvements, the Town Engineer shall prepare a Town Inspection Schedule to assure the construction of the required improvements in accord with the approved plan and Town standards. In addition to all final inspections required for all improvements, inspections shall be required at all phases of construction when a failure to inspect would result in a physical impossibility to verify compliance at the time of the final inspection (e.g. back filling of sewer or water line trenches). This may require a full-time inspector and may include, but not be limited to, such tests as pressure testing of conveyance lines or vacuum testing.
- C. Notice – The subdivider shall provide a minimum of five (5) working days notice to Town Engineer, or other inspector designated by the Town Board, prior to the time when construction will have pro-

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ceeded to the time of an inspection required by the Town Inspection Schedule.

D. Cost – The cost of all inspections conducted by the Town shall be borne by the subdivider.

### 305.5 – Ownership and Maintenance of Improvements and Common Area

The developer shall provide for the approval of the Town Board, prior to Final Plan approval, evidence of the provision for the succession of ownership and responsibility for maintenance of development improvements and/or common areas.

#### A. Private Operation and Maintenance

1. Home Owners Association – In the case of subdivisions, cluster developments, multi-family housing projects and other developments involving the transfer of property, the developer shall provide, by deed covenants and restrictions and with a reference to same on the Plan, for the creation of a Home Owners Association to assume the ultimate ownership of all development improvements and common areas and responsibility for maintenance of such improvements and common areas which are not dedicated to the Town. Membership in the Home Owners Association shall be mandatory for all property owners in the development.
2. Maintenance of Improvements – In the case where roads, drainage facilities, a central sewage treatment system or central water supply, or any other improvements are to remain private, the developer shall provide for the establishment of an escrow fund to guarantee the operation and maintenance of the improvements. Said fund shall be established on a permanent basis with administrative provisions approved by the Town Board and shall be in an amount of not less than fifteen (15) percent of the cost of improvements' construction as required by the Town.
3. Failure To Operate and Maintain Improvements – If any private improvements are not operated or maintained adequately to assure the function of said improvements consistent with Town requirements and/or the needs of the users of said improvements, the Town Board shall have the right to perform said operation and maintenance to meet the intent of this Law and otherwise protect the public health, safety and welfare. The Town Board shall use any and/or all legal authority and remedies in law available to accomplish same and shall assess the legal, construction, and other costs for same to the person(s) responsible for or benefitting from said proper operation and maintenance. Such actions may include, but are not limited to injunctive relief, or the formation of special districts to assess costs.

#### B. Dedication to Town

1. Road Law – The offer of dedication to the Town and the acceptance by the Town of any roads or associated drainage facilities shall be governed by the Town Road Law, as amended. In the case where roads are being constructed and offered for dedication as part of a subdivision regulated by this Law, the Town Road Law shall be applied concurrently with respect to procedures.
2. Maintenance Bond – Where improvements are being dedicated to the Town, the subdivider shall comply with the applicable requirements of any other Town Ordinances, Laws and Regula-

## **Town of Delaware Subdivision Regulations**

tions governing dedication of improvements and submit a maintenance bond or other approved security to guarantee maintenance and repair of those improvements for eighteen (18) months from the date of dedication. The maintenance bond shall generally be a maximum of fifteen percent (15%) of the costs of improvements, subject to approval of the Town Board and may be waived or altered on the advice of the Town Engineer.

### **306 – Final Plan Requirements for Major Subdivision**

The Final Plan shall be drawn on mylar. The Plan shall be prepared on one or more sheets of a uniform size and scale. Final Plan attachments and exhibits shall be numbered and labeled in accord with the requirements of this section. The Final Plan shall include, in addition to the information required for the Preliminary Plan submission, the following:

306.1 – Exact locations, widths and names of all streets within the subdivision.

306.2 – Complete curve data for all curves included in the Plan.

306.3 – Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements.

306.4 – Accurate dimensions of any lots or areas to be reserved or dedicated for common use by residents of the subdivision, or for general public use, with the purpose indicated thereon.

306.5 – Building setback lines, shown graphically with dimensions.

306.6 – A final version of all covenants and restrictions , if any, the developer intends to place in the deeds to the lots in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included.

306.7 – The total tract boundary lines of the area being subdivided, with accurate distances to hundredths of a foot and bearings to one minute. These boundaries shall be determined by accurate survey in the field. The location and elevation of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the Licensed Professional Surveyor shall certify, to the accuracy of the survey, the drawn plan, and the placement of the monuments.

306.8 – The Final Plan shall contain a certificate signed by the project engineer indicating that all improvements have either been installed and approved by the proper officials or agencies, or that a guarantee in an amount satisfactory to the Town Engineer and sufficient to ensure their installation has been submitted to the Town.

306.9 – Complete final construction plans and profiles of installed or proposed public sanitary sewage disposal systems and storm drains, with grades and pipe sizes.

306.10 – Complete final construction plans of installed or proposed public water distribution systems showing pipe sizes and locations off valves and fire hydrants, if any.

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306.11 – Evidence of actual arrangements made with utility companies or agencies for supplying each lot in the subdivision.

306.12 – Approval blocks for signature of the Town Planning Board Chairman or other authorized member and the NYS Department of Health shall appear on the first sheet of all sets of plans, including the mylar originals.

306.13 – A statement that the Erosion and Sedimentation Plan and the Storm Water Management Plan, if required by the Planning Board, have been prepared and where appropriate approved by the Town Engineer.

### **307 – Fees**

At the time an Application for subdivision approval is filed, a fee shall be paid to the Town by the subdivider; such fee to be determined from a schedule of fees as adopted by the Town Board from time to time by resolution and on advice of the Planning Board. Such fees shall include any professional costs incurred by the Town in reviewing the application, although these particular fees will, of necessity, be collected at a later date prior to final approval.

### **308 – Lot Improvements**

#### **308.1 – Exemption**

Lot improvements (Defined as the realignment of lot lines provided the resulting lots are not made more nonconforming; or the transfer of land to increase the size of an existing lot provided any lot proposed for a reduction in size complies with all provisions of this Law and the Town of Delaware Zoning Law, and no new lots are created; or the combination or reallocation of small lots into a larger lot or lots.) shall be exempt from the plan processing provisions of this Law, provided that:

- A. Any lot proposed for a reduction in size shall comply in all respects to the provisions of this Law and the Town Zoning Law; and
- B. Three (3) copies of the plan are submitted to the Planning Board.

#### **308.2 – Recording Approval**

After the Planning Board shall have determined that the conditions for a lot improvement exemption have been met, the Chairman or other duly authorized member they shall sign the Plans with the following notation: "Approval is granted for recording purposes only in accord with §308 of the Town of Delaware Subdivision Law."

#### **308.3 – Plan Requirements; Fees**

Plans submitted as lot improvements shall meet the plan requirements for minor subdivisions and shall be subject to the fees established by the Town Board.

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### 309 Plan Processing Procedures

#### 309.1 – Coordination With SEQRA

The Planning Board shall comply with the provisions SEQRA under Article 8 of the NYS Environmental Conservation Law and its implementing regulations.

#### 309.2 – Action On Preliminary Plans

- A. Receipt of a Complete Preliminary Plan – A preliminary plan shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accord with the provisions of SEQRA. The time periods for review of a preliminary plan shall begin upon filing of such negative declaration or such notice of completion.
- B. Planning Board as Lead Agency Under SEQRA; Public Hearing; Notice; Decision
1. Public Hearing on Preliminary Plans. – The time within which the Planning Board shall hold a public hearing on a preliminary plan shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:
    - a. If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plan is not required, the public hearing on such plan shall be held within sixty-two (62) days after the receipt of a complete preliminary plan by the Secretary of the Planning Board; or
    - b. If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plan and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement in accord with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plan shall be held within sixty-two days of filing the notice of completion.
    - c. Notice to Adjacent Property Owners – Notices of subdivision hearings shall be provided, by the applicant, to all adjacent property owners as identified in the latest tax assessment records of the Town of Delaware, including those for properties on the opposite side of any public or private road. Such notice shall be given by certified mail at least seven (7) calendar days in advance of such hearing. The Planning Board shall be authorized to waive this requirement in the case of minor subdivision applications or where it is determined by the Board that adjoining owners have otherwise been afforded reasonable notice of such hearing as evidenced by their appearance at or knowledge of such hearing. No hearing shall be delayed where the Board determines the applicant has made reasonable attempts to notify all interested parties as provided herein.
  2. Public Hearing; Notice; Length. – The hearing on the preliminary plan shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen (14) days

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before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advised in such manner as it deems most appropriate for full public consideration of such preliminary plan. The hearing on the preliminary plan shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

3. Decision. – The Planning Board shall approve, with or without modification, or disapprove such preliminary plan as follows:
  - a. If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plan is not required the Board shall make its decision within sixty-two (62) days after the close of the public hearing; or
  - b. If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing in accord with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing on the preliminary plan. Within thirty (30) days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plan.
4. Grounds For Decision – The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plan, the Planning Board shall state in writing any modifications it deems necessary for submission of the plan in final form.

### B. Planning Board Not as Lead Agency Under the State Environmental Quality Review Act; Public Hearing; Decision.

1. Public Hearing on Preliminary Plans -The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plan jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the preliminary plan within sixty-two (62) days after the receipt of a complete preliminary plan by the Secretary of the Planning Board.
2. Public Hearing; Notice; Length – The hearing on the preliminary plan shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing if held independently of the hearing on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plan. The hearing on the preliminary plan shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

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3. Decision -The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plan within sixty-two (62) days after the close of the public hearing on such preliminary plan.
  4. Grounds for Decision -The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plan, the Planning Board shall state in writing any modifications it deems necessary for submission of the plan in final form.
- D. Certification and Filing of Preliminary Plan. – Within five (5) business days of the adoption of the resolution granting approval of such preliminary plan, such plan shall be certified by the Secretary of the Planning Board as having been granted preliminary approval and a copy of the plan and resolution shall be filed in such Secretary’s office. A copy of the resolution shall be mailed to the owner.
- E. Filing of Decision on Preliminary Plan. – Within five (5) business days from the date of the adoption of the resolution approving the preliminary plan, the Chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
- F. Revocation of Approval of Preliminary Plan. – Within six (6) months of the approval of the preliminary plan the owner must submit the plan in final form. If the final plan is not submitted within six (6) months, approval of the preliminary plan may be revoked by the Planning Board.

### 309.3 – Action On Final Plans

- A. Submission of Final Plans – Final plans shall conform to the definition provided by this Law. Final plans may require further review under SEQRA.
- B. Final Plans Which Are in Substantial Agreement with Approved Preliminary Plans When a final plan is submitted which the Planning Board deems to be in substantial agreement with a preliminary plan approved pursuant to this Law, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plan, within sixty-two (62) days of its receipt by the Secretary of the Planning Board.
- C. Final Plans When No Preliminary Plan Is Required to Be Submitted; Receipt of Complete Final Plan – When no preliminary plan is required to be submitted (i.e., minor subdivision plans), a final plan shall not be considered complete until a negative declaration had been filed or until a notice of completion of the draft environmental impact statement has been filed in accord with the provisions of SEQRA. The time periods for review of such plan shall begin upon filing of such negative declaration or such notice of completion.
- D. Final Plans; Not in Substantial Agreement With Approved Preliminary Plans, or When No Preliminary Plan Is Required or Submitted – When a final plan is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plan approved pursuant to this Law, or when no preliminary plan is required to be submitted (i.e., minor subdivision plans) and a final plan clearly marked “final plan” is submitted conforming to the definition provided by this Law the following shall apply:

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1. Planning Board As Lead Agency; Public Hearing; Notice; Decision.
  - a. Public Hearing On Final Plans – The time within which the Planning Board shall hold a public hearing on such final plan shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:
    - (1) Environmental Impact Statement Not Required – If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plan not in substantial agreement with a preliminary plan, or on a final plan when no preliminary plan is required to be submitted, shall be held within sixty-two (62) days after the receipt of a complete final plan by the Secretary of the Planning Board; or
    - (2) Environmental Impact Statement Required – If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the final plan and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement in accord with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plan shall be held within sixty-two (62) days following filing of the notice of completion.
  - b. Public Hearing; Notice; Length – The hearing on the final plan shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such a manner as it deems most appropriate for full public consideration of such final plan. The hearing on the final plan shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.
  - c. Decision – The Planning Board shall make its decision on the final plan as follows:
    - (1) Environmental Impact Statement Not Required – If the Planning Board determines that the preparation of an environmental impact statement on the final plan is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plan within sixty-two (62) days after the date of the public hearing; or
    - (2) Environmental Impact Statement Required – If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing in accord with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing on the final plan. Within thirty (30) days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement

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and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plan.

- d. Grounds For Decision – The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.
2. Planning Board As Lead Agency; Public Hearing; Notice; Decision -
    - a. Public Hearing – The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plan jointly with the lead agency’s hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the final plan within sixty-two (62) days after the receipt of a complete final plan by the Secretary of the Planning Board.
    - b. Public Hearing; Notice; Length – The hearing on the final plan shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing if held independently of the hearing on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such a matter as it deems most appropriate for full public consideration of such final plan. The hearing on the final plan shall be closed after one hundred twenty (120) days after it has been opened.
    - c. Decision -The Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plan within sixty-two (62) days after the close of the public hearing on such final plan. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

### 309.4 – Approval And Certification Of Final Plans

- A. Certification of Plan – Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plan, such plan shall be certified by the Secretary of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plan shall be filed in such Secretary’s office. A copy of the resolution shall be mailed to the owner. In the case of a conditionally approved plan, such resolution shall include a statement of the requirements which when completed will authorize the signing thereof. Upon completion of such requirements the plan shall be signed by a duly authorized officer of the Planning Board and a copy of such signed plan shall be filed with the Town Clerk.
- B. Approval Of Plans In Sections – In granting conditional or final approval of a plan in final form, the Planning Board may permit the plan to be subdivided and developed in two (2) or more sections and may in its resolution granting conditional or final approval state that such requirements as it deems necessary to insure the orderly development of the plan be completed before said sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plan, may be granted concurrently with conditional or final approval of the entire plan, subject to any requirements imposed by the Planning Board.

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- C. Duration of Conditional Approval of Final Plan – Conditional approval of the final plan shall expire within one hundred eighty (180) days after the resolution granting such approval unless all requirements stated in such resolution have been certified as complete. The Planning Board may extend by not more than two (2) additional periods of ninety (90) days each the time in which a conditionally approved plan must be submitted for signature if, in the Planning Board’s opinion, such extension is warranted by the particular circumstances.

### **309.5 – Default Approval Of Preliminary Or Final Plan**

The time periods prescribed herein within which the Planning Board must take action on a preliminary plan or a final plan are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the Planning Board. In the event the Planning Board fails to take action on a preliminary plan or a final plan within the time prescribed therefor, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such preliminary or final plan shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the preliminary or final plan and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

### **309.6 – Filing Of Decision On Final Plan**

Within five (5) business days from the date of the adoption of the resolution approving the final plan, the Chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.

### **309.7 – Notice To County Planning Agency**

The Secretary of the Planning Board shall refer all applicable preliminary and final plans to the county planning agency as provided in §239-n of the General Municipal Law.

### **309.8 – Expiration Of Final Approval**

The signature of the duly authorized officer of the Planning Board constituting final approval by the Planning Board of a plan as herein provided; or the approval by the Board of the development of a plan or plans already filed in the Office of the County Clerk if such plans are entirely or partially undeveloped; or the certificate of the Town Clerk as to the date of the submission of the final plan and the failure of the Planning Board to take action within the time herein provided, shall expire within sixty-two (62) days from the date of such approval, or from the date such certificate is issued, unless within sixty-two (62) day period such plan or a section thereof shall have been duly filed or recorded by the owner in the Office of the County Clerk. In the event the owner shall file only a section of such approved plan in the Office of the County Clerk, the entire approved plan shall be filed within thirty (30) days of the filing of such section with the Town Clerk in each town in which any portion of the land described in the plan is situated. Such section shall encompass at least ten (10) percent of the total number of lots contained in the approved plan and the approval of the remaining sections of the approved plan shall expire unless said sections are filed before the expiration of the exemption period to which such plan is entitled under the provisions of §265(a)(2) of the New York State Town Law.

## **Town of Delaware Subdivision Regulations**

### 309.9 – Subdivision Abandonment

The owner of an approved subdivision may abandon such subdivision pursuant to the provisions of §560 of the New York State Real Property Tax Law.

### 309.10 – Application Filing Deadline

The Planning Board shall, for purposes of agenda preparation and project evaluation, be authorized, although not required, to reject any application not filed with the Building Inspector at least eight (8) calendar days prior to the meeting at which action is requested. The Planning Board may, from time to time and by resolution, adjust this time period to meet its needs, provided that such period shall not be more than twenty (20) calendar days.

# **Town of Delaware Subdivision Regulations**

## **ARTICLE IV – DESIGN STANDARDS**

### **401 – Application**

The design standards and requirements set forth in this Article shall be observed as minimums by the subdivider in the design of each subdivision within the Town of Delaware. The Planning Board may require more-restrictive standards where necessary to protect the health, safety and welfare of the public, and where circumstances unique to the property so dictate.

### **402 – General Site Requirements**

#### **402.1 – Zoning Law Compliance**

The subdivision shall fully comply with the provisions of the Town of Delaware Zoning Law.

#### **402.2 – Hazardous Areas**

Those areas which are subject to such hazards of life, health, or property as may arise from fire, flood or noise, or are considered to be uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards. In addition to the Zoning Law and the Town Master Plan, information for determining and evaluating potential hazards may include references to historical records, soil evaluations, engineering studies, expert opinions, established standards used by licensed insurance companies, and Federal, State, or local policies, such as, but not limited to, an established floodplain lines. The burden of proving a particular parcel is suitable for subdivision or building purposes shall be upon the proponent thereof.

#### **402.3 – Tract and Area-Wide Design**

All portions of a tract being subdivided shall be taken up in lots, streets, public lands, or other proposed uses, so that remnants and land-locked areas shall not be created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods, so that the development is coordinated in terms of traffic movement, drainage, and other reasonable considerations including aesthetic concerns.

#### **402.4 – Natural Features**

In all subdivisions, care shall be taken to preserve natural features such as trees, water courses, views, and historical features which will add attractiveness and value to the remainder of the land. Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with the approval of the New York Department of Environmental Conservation and other agencies with jurisdiction.

#### **402.5 – Burden of Proof**

The burden of proving a particular parcel is suitable for subdivision shall be upon the developer.

## Town of Delaware Subdivision Regulations

### 403 – Blocks and Lots

#### 403.1 – Blocks

- A. Length – Blocks shall ordinarily not exceed two thousand (2,000) feet in length.
- B. Width – Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth, except where an interior street parallels a major street, or where it backs up to a railroad, creek, or other natural barrier or unsubdivided area.
- C. Interior Streets – Where a subdivision adjoins a major State or County highway the greater dimension of the block shall front along said highway, and interior streets may be required to minimize the number of points of access. Such streets may be required whenever topographic conditions, traffic density or lack of proper sight distance dictate for reasons of health and safety. Any subdivision of five (5) lots or more with frontages averaging less than one hundred fifty (150) feet along the highway or any subdivision of property in a Commercial Zoning District may be subject to this requirement, if the Planning Board determines, after inspection, that it is necessary for the above stated reasons.
- D. Cul-de-sacs – Cul-de-sac streets, permanently designed as such, shall not exceed (one thousand twelve-hundred) 1,200 feet in length. Cul-de-sac streets shall have at the closed end a turn-around with the right-of-way having a minimum outside radius of not less than fifty (50) feet and shall be paved to a radius of not less than forty (40) feet. Drainage of cul-de-sacs shall preferably be toward the street end.

#### 403.2 – Lots

- A. Lot Lines – All side lines of lots shall be at approximate right angles to straight street lines and radial to curved street lines, except where a variation to this rule will provide a safer layout or improve the orientation of the lots for purposes of solar access. Pan-handle lots with limited road frontage shall generally not be permitted.
- B. Double Frontage – Double frontage lots shall ordinarily not be planted, except as specifically provided herein. In that event a planting strip of at least twenty (20) feet in width may be required along the back of the lot.
- C. Land Remnants – Remnants of land shall not be permitted. All land in a subdivision shall be incorporated into lots, areas of improvements or designated common area.
- D. Corner Lots – Corner lots shall have a lot width of at least one hundred (100) feet on each right-of-way. Either of the two (2) sides of a corner lot may be designated as the front, provided the rear yard shall always be opposite the frontage so designated. All corner lots shall have a curve with a minimum radius of twenty-five (25) feet joining the intersecting right-of-way lines.
- E. Street Frontage – All lots shall front on a public or private street (existing or proposed).
- F. Zoning Standards – In all cases, the dimension standards contained within the Town of Delaware Zoning Law shall apply to all lots created.

## **Town of Delaware Subdivision Regulations**

- G. Markers – The corner of each lot shall be marked to permanently and accurately define the metes and bounds of the block and lots created.
- H. Building Lots – Each lot shall contain a suitable area in terms of topography and other natural conditions for construction of the proposed building type in compliance with Town Law and the New York State Uniform Fire Prevention and Building Code without foreseeable difficulties. All lots intended for single-family residential dwellings shall contain a buildable portion with a dwelling site and sewage disposal site of not less than ten thousand (10,000) square feet, five thousand (5,000) square feet when served by public or community sewage disposal. The buildable area shall be situated to permit the siting of the dwelling while meeting all code requirements and shall have an average slope of fifteen (15) percent or less.
- I. Municipal Boundaries – Lot lines shall follow municipal and county boundary lines rather than cross them.
- J. Reserve Strips – Reserve strips controlling access to lots, public rights-of-way, public lands or adjacent private lands are prohibited.

### **404 – Common Open Space**

#### 404.1 – Dedication

Not less than ten percent (10%) of the gross area of the entire tract, exclusive of watercourses, lakes or ponds, shall be reserved for common open space and the recreational use of the residents of that subdivision or the general community. The minimum size of any dedicated area shall be one (1) acre.

#### 404.2 – Waiver

This requirement may be waived in instances where the average lot size is two (2) one acres or more and less than twenty-five (25) lots are created or where the Planning Board that such common area would be undesirable or unreasonable due to the size, topography or location of the subdivision.

#### 404.3 – Types and Configuration of Facilities

The following and similar facilities shall satisfy the requirement for common open space: swimming pools, tennis courts, riding and cycling paths, playgrounds, community centers, and other open areas. Such areas designated for play lots, parks and other outdoor recreational facilities shall be of a size, shape and other physical characteristics so as to be free of health and safety hazards and suitable for the designated use.

#### 404.4 – Dedication

Common open space so designated and developed and intended for public dedication shall not be deemed to be accepted by the Town until a resolution accepting such open space is adopted by the Town Board.

### **405 Water Supply**

All subdivisions shall be served with an adequate water supply meeting the following standards:

## **Town of Delaware Subdivision Regulations**

### **405.1 – Service Required**

All residential, commercial and industrial lots shall contain a suitable area for an on-site water supply well or be served by an approved off-site water supply system

### **405.2 – Public Water Supply**

- A. Availability – When a proposed subdivision is located within an existing water district or where a public water supply is available within reasonable proximity, generally one thousand (1,000) feet of the proposed subdivision, the developer shall construct a system of water mains and connect with such system and provide a connection for each lot, provided capacity is available and necessary agreements with the water district or public system owner. The developer shall absorb all costs associated therewith. Suitable agreements shall also be established for the design, specifications, construction, ownership and maintenance of such distribution system, and shall be submitted to the Planning Board for approval prior to final approval of the subdivision.
- B. Design – Plans and specifications for the extension of an existing system shall be prepared by a Professional Engineer and shall conform to accepted engineering practices and requirements of the system operator as well as the Town of Delaware and New York State Department of Health and Department of Conservation standards.

### **405.3 – Community Water Supply**

- A. Design – When a new or connection to an existing private community water supply is proposed, plans and specifications shall be prepared by a Professional Engineer and shall conform to accepted engineering practices as well as the Town of Delaware and New York State Department of Health standards. The system shall be designed to furnish adequate main sizes and, if deemed necessary by the Planning Board, fire hydrants located to meet the specifications of the Association of Fire Underwriters and the local Fire District. Suitable agreements shall also be established for the design, specifications, construction, ownership and maintenance of such distribution system, and shall be submitted to the Planning Board for approval prior to final approval of the subdivision.
- B. Capacity – The subdivider must demonstrate ability to provide a minimum of seventy-five (75) gallons of water per capita or one hundred fifty (150) gallons per bedroom per day for each single-family residential dwelling unit or equivalent to be serviced.
- C. Installation – New wells shall be sited, drilled, and tested under the direct supervision of a Professional Engineer or a professional groundwater geologist.
- D. Location – Any new community water supply well shall be located on a reserved parcel of adequate size and suitable configuration to provide for necessary access for operation and maintenance in accord with New York State Department of Health and Department of Conservation requirements.

### **406 – Sewage Disposal**

All subdivisions shall be served with adequate sewage disposal systems meeting the following standards:

## Town of Delaware Subdivision Regulations

### 405.1 – Service Required

All residential, commercial and industrial lots shall contain suitable areas for on-lot sewage disposal systems or be served by an approved off-site sewage disposal system.

### 405.2 – Public Sewage Systems

- A. Availability – When a proposed subdivision is located within an existing sewer district or where a public sewage disposal system is available within reasonable proximity, generally one thousand (1,000) feet of the proposed subdivision, the developer shall construct a collection and conveyance system and connect with such system and provide a connection for each lot, provided capacity is available and necessary agreements with the sewer district or public system owner. The developer shall absorb all costs associated therewith. Suitable agreements shall also be established for the design, specifications, construction, ownership and maintenance of such system, and shall be submitted to the Planning Board for approval prior to final approval of the subdivision.
- B. Design – Plans and specifications for the extension of an existing system shall be prepared by a Professional Engineer and shall conform to accepted engineering practices and requirements of the system operator as well as the Town of Delaware and New York State Department of Environmental Conservation and Department of Health standards.

### 405.3 – Community Sewage Disposal System

- A. Requirement – Community sewage disposal systems are required for all residential, commercial and industrial lots outside sewer districts where soil conditions are unsuitable for on-lot subsurface sewage disposal systems according to New York State Department of Health and Environmental Conservation standards as certified by a Professional Engineer.
- B. Design – When a new or connection to an existing private community sewage disposal system is proposed, plans and specifications shall be prepared by a Professional Engineer and shall conform to accepted engineering practices as well as the Town of Delaware and New York State Department of Health and Department of Environmental Conservation standards. Suitable agreements shall also be established for the design, specifications, construction, ownership and maintenance of such distribution system, and shall be submitted to the Planning Board for approval prior to final approval of the subdivision.

### 405.4 – On-Site Sewage Disposal Systems

- A. Use of Systems – Where connection to a community sewage system is not required, on-site systems shall be provided in accord with criteria set forth by the New York Department of Health and Department of Environmental Conservation.
- B. Site Suitability – Suitable soil characteristics on each lot shall be demonstrated with the requirements of the New York Department of Health and Department of Environmental Conservation.

## **Town of Delaware Subdivision Regulations**

### **407 – Erosion and Sedimentation**

Should any proposed subdivision involve the disturbance of any land area by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetation the Planning Board may require an erosion and sedimentation plan prepared by a Professional Engineer in cooperation with the Sullivan County Conservation District.

### **408 – Storm Water Management**

Should any proposed subdivision involve the installation of any streets or other impervious surfaces or in any other manner increase the volume of storm water leaving the site, or cause the interruption or change in any existing drainage course the Planning Board may require a storm water management plan. Such plan shall be prepared by a Professional Engineer in consultation with the Sullivan County Conservation District. The following additional requirements shall apply:

#### 408.1 Design

- A. Storm water management facilities shall be designed for a storm frequency of ten (10) years, using generally accepted engineering principles appropriate for the proposed site and development. Detention facilities shall be designed to retain a one hundred (100) year storm without facility failure.
- B. In cases where detention of storm water is proposed, the post development, peak rate of storm water discharge from the parcel being developed shall not exceed the pre-development, peak rate of storm water discharge from the parcel being developed. The calculation of post development discharge shall, in addition to areas disturbed during development, include the estimated effect of all run-off expected from driveways, buildings, walkways, parking areas and other impervious areas associated with the ultimate build-out of the subdivision or land development.
- C. The Planning Board shall in cases where existing drainage problems, flooding or other factors relating to the public health, safety and welfare and upon the recommendation of the Town Engineer, require that the proposed storm water control facilities be designed to a twenty-five (25) year storm frequency and/or other more stringent criteria; or, require the provision of storm water control facilities in areas where no such facilities are proposed by the developer.

#### 408.2 Additional Requirements

- A. Lots shall be laid out and graded to prevent cross-lot drainage away from proposed building areas. Natural drainage courses shall be maintained to the greatest extent possible.
- B. The existing points of natural drainage discharge onto adjacent property shall not be altered, nor shall the rate of water runoff be increased because of development, without the written approval of all affected land owners.
- C. No storm water runoff or natural drainage water shall be so diverted as to overload existing drainage systems, or create flooding or the need for additional drainage structures on other private properties or public lands, without complete approval of provisions being made by the developer for properly handling such conditions.

## Town of Delaware Subdivision Regulations

- D. Reserved
- E. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream,, there shall be provided a drainage easement of at least twenty-five (25) feet on each side of the stream measured from the stream bank, or such additional width as will be adequate to preserve the unimpeded flow of natural drainage and/or for the purpose of widening, deepening, relocating, improving or protecting such drainage facilities.
- F. Drainage structures that are located on State or County highway rights-of-way shall be approved by the respective authorities, and a letter indicating such approval shall be directed to the Town prior to preliminary final plan approval.
- G. All streets shall be so designed as to provide for the discharge of surface water from their rights-of-way. The slope of the crown on proposed streets shall be 1/4" per foot away from the center line unless a greater crown is required by other Town standards.
- H. All proposed surface drainage structures shall be indicated on the preliminary plan.
- I. Drainage plans shall include all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations.
- J. Whenever storm drains are required by the Planning Board such storm sewer systems shall be separate from the sanitary sewer system. Storm drains or storm sewer facilities may be required in any development situation where the Planning Board determines that surface drainage facilities are inadequate to prevent excessive erosion and lot or road maintenance problems.
- K. Drainage systems shall be designed in accord with such design standards as may be promulgated by the New York State Transportation, Sullivan County or the Town of Delaware using hydraulic computations to show effects of the flow of water. In no case shall any pipe system of less than fifteen (15) inches in diameter be used underneath a street or driveway. All dams, lakes, ponds or stream encroachments shall be designed in accord with State design standards.
- L. Reserved
- M. All drainage systems and structures shall be subject to the approval of the Town Engineer, Town Highway Superintendent or any such other qualified person as may be appointed for this purpose by the Town Board.

### 409 – Street Requirements

#### 409.1 – General

The arrangement, character, extent, width, grade and location of all streets shall conform to the Town Master Plan. Where not shown on the Master Plan, the arrangement and other design standards of streets shall conform to the provisions found herein. In cases where the standards in this Law and the Town Road Law differ, the more restrictive shall apply.

## Town of Delaware Subdivision Regulations

- A. Public Streets – Streets proposed for dedication to the Town shall be constructed in accord with the requirements of this Law and the Town Road Law.
- B. Private Streets – Where private streets which are not proposed for dedication to the Town are planned as part of a subdivision, and are approved by the Planning Board, the following requirements shall apply:
  - 1. Private streets shall be constructed in accord with the requirements of this Law and the Towns Road Law, except that the Planning Board may grant a waiver as to surfacing requirements for private roads if all other standards of this Law and the Town Road Law are met. (See §409.8,B.)
  - 2. Rights-of-way for private streets shall include a grant for easements necessary for the installation of utilities.
  - 3. A perpetual access right-of-way across the private street shall be provided to any abutting property or lot to which the street is intended to provide access.
  - 4. The developer shall provide by an agreement binding on all parties for the perpetual ownership and maintenance of all private streets and associated drainage facilities and such agreement shall be approved by the Town Board prior to final approval of the subdivision.
  - 5. The final plan of any subdivision with private streets shall include the following statement:

“The subdivision street(s) and associated drainage facilities shown on this plan are private in nature and the Town of Delaware bears no responsibility now or in the future for the maintenance of the said street(s) and associated drainage facilities. Responsibility for maintenance is established in a private road maintenance agreement.”
  - 6. No building permits shall be issued by the Town for any structure within a subdivision served by private streets until final plan approval has been granted and the street has been constructed by the developer and inspected by the Town Engineer and found to meet all construction requirements.

### 409.2 – Design and Arrangement

- A. Right-of-Way – Every subdivision shall have access to a public right-of-way and the right-of-way of the principal access to any subdivision shall be a minimum of fifty (50) feet in width. No subdivision will be approved where the width of the existing right-of-way is less than fifty (50) feet unless the subdivider is able to secure such additional right-of-way as may be required to achieve this width.
- B. Circulation – In general, all streets shall be continuous and in alignment with existing streets and shall compose a convenient system to insure circulation of vehicular and pedestrian traffic, with the exception that minor streets shall be laid out including the use of loop streets and cul-de-sacs, so that their use by through traffic will be discouraged.
- C. Existing Arterial Street – Where a subdivision abuts or contains an existing or proposed arterial street, marginal access streets may be required, in order to protect residential areas from heavy traffic and also to provide separation between local and through traffic.

## Town of Delaware Subdivision Regulations

- D. Lots and Grades – Streets shall be logically related to the topography so as to produce useable lots and reasonable grades as required by this and other Town Ordinances and Laws.
- E. Half and Partial Streets – New half or partial streets will not be permitted. Wherever a tract to be subdivided borders an existing half or partial street, the remaining portion of the street shall be planted within such tract.
- F. Dead-End Streets – Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sacs.
- G. Adjoining Tracts – Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets.
- H. Intersections – Streets shall be laid out to intersect as nearly as possible at right angles; in any event, no street shall intersect another at less than sixty (60) degrees. Intersections of more than two (2) streets shall be avoided. Where this proves impossible, such intersections shall be designed with care for safety, and suitable curbs, barriers, signs and other devices as may be required. Streets entering opposite sides of another street shall be laid out directly opposite one another or offset a minimum of one hundred and twenty-five (125) feet.
- I. Arterial Intersections – Street and driveway intersections with arterial streets shall not be so numerous, nor so close to each other, as to impede the flow of traffic.
- J. Sight Triangles – Clear sight triangles shall be provided at all street intersections. Such triangles shall be established from a distance of seventy-five (75) feet from the point of intersection of the center lines.
- K. Restricted Access – Whenever, in connection with a major subdivision, the principal access (whether public or private) to such subdivision, by virtue of bridge weight limits of less than twenty (20) tons or other comparable limitations, would restrict access to the property by emergency vehicles or school buses, the subdivider shall so indicate in writing on the final plans to be recorded and shall provide for notification to prospective lot buyers through deed covenant provisions which shall be approved by the Town Attorney as to form.

### 409.3 – Reserved

### 409.4 – Street Grades

- A. Profiles – No street grade shall be less than 0.5 percent or exceed the following, with due allowances for reasonable vertical curves:

Major Traffic Streets	4%
Collector Streets	10%
Minor Streets	15%

- B. Intersections – Streets shall have a grade not to exceed three (3) percent for a distance within fifty (50) feet of the street right-of-way line of any intersecting street.

## Town of Delaware Subdivision Regulations

- C. Cross Section – The gradients of streets shall be not less than 0.5 percent without curbs and gutters, and 0.3 percent with curbs and gutters. On streets where curbs, gutters, and sidewalks are not required, there shall be a shoulder, as provided in the Town Road Law.
- D. Visibility – The minimum vertical and horizontal visibility for curves (measured at 3.75-foot eye level to 0.5 feet above street level) shall be as follows:

Major Highways	500 feet
Collector Streets	300 feet
Minor Streets	300 feet

### 409.5 – Street Width

Right-of-Way Width – The minimum required right-of-way widths for streets and alleys are as follows:

Major Streets	60 feet
Collector Streets	50 feet
Minor Streets	50 feet
Crosswalks	4 feet

### 409.6 – Dead-End Streets

Any dead-end street shall end in a cul-de-sac with a surfaced turning area of not less than eighty (80) feet in diameter, and a right-of-way of not less than one hundred twenty (120) feet in diameter.

### 409.7 – Grading

Only that portion of the required right-of-way necessary for the installation of paving, drainage structures, curbs and gutters, utilities and other required improvements shall be graded and suitably prepared in accord with the appropriate standards for the class of street. The subgrade shall be free of sod, vegetative matter, or other similar material. Where poor subsurface drainage conditions exist, adequate drainage shall be installed. The subgrade construction shall conform to minimum standards of the Town Road Law.

### 409.8 – Pavement

- A. Pavement Width – The width of pavement required shall vary, depending upon the character of the development served and the amount of traffic expected to utilize the street. The following are minimum street pavement widths:

TYPE OF STREET	Minimum Shoulder Width (each side)	Minimum Clearance Beyond Shoulder (each side)	Minimum Pavement Width
Major	10 feet	4 feet	24 feet
Collector	10 feet	4 feet	22 feet
Minor	5 feet	4 feet	20 feet

## Town of Delaware Subdivision Regulations

- B. Pavement Material – The pavement shall be constructed in accord with specifications and standards contained in the Town Road Law.
- C. Private Roads – A waiver may be granted as to surfacing requirements for private roads if all other standards of this Law and the Town Road Law are met.

### 409.9 – Shoulders and Embankments

- A. Shoulders – Street shoulders shall be constructed with materials as specified by the Town Road Law. The entire shoulder area shall be uniformly and thoroughly compacted by rolling and must be level with the top of the road paving, or as directed by the Town Engineer.
- B. Embankments – Embankments at the sides of streets and cross-sections of drainage ditches shall not exceed a maximum slope of two (2) feet horizontally to one (1) foot vertically in a cut or fill section. In special cases, the Planning Board may require more-rigid standards.

### 409.10 – Curbs

- A. Required – In commercial developments or where other similar intensive uses exist or are anticipated, curbs may be required if such construction is deemed necessary for public safety.
- B. Radii at Intersections – Minimum curb or pavement edge radii at street intersections shall be thirty (30) feet.

### 409.11 – Walls, Slopes and Traffic Guides

- A. Required – Where the grade of the street is above or below the grade of the adjacent land, walls or slopes shall be constructed in a manner satisfactory to the Town, and shall be sufficient to support the street or the adjacent land, as the case may be.
- B. Traffic Guides – Traffic guiderails shall be installed in accord with the Town Road Law.

### 409.12 – Street Improvements (Generally)

All streets, including cul-de-sacs and alleys, shall be constructed as shown on the Preliminary and Final Plan approved by the Planning Board and in conformity with the Town Road Law. Where such Law does not provide a clear standard, the Town may rely upon the standards promulgated by the New York State Department of Transportation or the Town Superintendent of Highways.

### 409.13 – Street Name Signs

Four-way street name signs of a design approved by the Town Board shall be installed at each street intersection at the subdivider's expense. Streets that are extensions of, or obviously in alignment with, existing streets shall bear the name of existing streets. Street names shall not duplicate existing street names in the Town of Delaware and shall be approved by the Town and signs shall meet the specifications of the NYS Manual of Uniform Traffic Control Devices.

## Town of Delaware Subdivision Regulations

### 409.14 – Street Lighting

The Planning Board shall determine when and if street lighting is necessary, evaluating need on the basis of safety considerations and commonly accepted standards of lighting. Street lighting is the responsibility of the applicant to provide, and the lot owners to maintain and operate. Whether or not street lights are initially installed, the developer shall be responsible for providing utility easements for future street lighting installation, upon consultation with the public service utility company involved.

### 409.15 – Requirement for Road Occupancy and Other Permits

- A. County and State – No driveway, street or drainage facility or structure shall be constructed or altered within a county or state right-of-way, and no drainage facility of Sullivan County or the New York State Department of Transportation shall be altered or connected to without first obtaining a permit from the respective authorities.
- B. Town – No driveway, local road or drainage facility or structure shall be constructed or altered within a Town right-of-way, and no drainage facility of the Town of Delaware shall be altered or connected to without first obtaining a permit from the Town.

### 409.16 – Private Drives

- A. Individual Driveways – Individual driveways serving only one single-family each shall not be subject to street improvement requirements of this Law or of the Town Road Law, however, driveway connections shall comply with drainage requirements of this Law and the Town Road Law.
- B. Shared driveway – Private drives to service no more than two (2) single-family dwellings shall be permitted provided the Town is given satisfactory evidence, in the form of a declaration of restrictive covenants, that the private status of said road is permanent and the following standards are met:
  - 1. Required widths:

Minimum Right-of-Way	25 feet
Minimum Pavement Width	12 feet
Minimum Shoulder Width	3 feet
  - 2. Pavement shall consist of any all-weather surface satisfactory to the Town Engineer.
  - 3. If there is a potential for re-subdivision of either of the lots to be serviced by a shared private drive such that eventually more than two (2) lots might result, the subdivider shall provide additional right-of-way as necessary to serve the maximum potential number of lots.
  - 4. A vehicular turn-around on the private drive may be required by the Planning Board.
  - 5. A drainage plan may be required by the Planning Board.

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### 409.17 – Bridges and Stream Crossings

Bridges and other stream crossing structures which are part of the proposed street system shall be designed and constructed in accord with the current NYS Department of Transportation Standards and Specifications and the Sullivan County Department of Public Works. Evidence of compliance with and approval of the NYS Department of Environmental Conservation, shall be provided. The travelway of the bridge or stream crossing shall be of a minimum width equal to the cartway width of the roadway carried by the bridge or stream crossing. Adequate provision, as approved by the Planning Board, shall also be made for pedestrian crossing.

### 409.18 – Shade Trees

Reasonable efforts shall be made by the subdivider to preserve existing shade trees. In addition, the Planning Board may require that deciduous hardwood trees, with a minimum caliber of one and one-half (1 1/2) inches, be provided, in accord with conditions to be agreed upon by the Town and, if necessary, the appropriate public utility. Any tree planted in a commercial or industrial area shall have a minimum caliber of three (3) inches. Where provided, such trees shall be planted between the street right-of-way and the building reserve (setback) line at least ten (10) feet from the public street right-of-way. No trees or shrubs shall be planted between any sidewalk and the right-of-way line. If required by the Planning Board, a street tree planting plan shall be furnished for approval by the Planning Board as to kind, size, and location of trees.

### 409.19 – Walks

Pedestrian interior walks may be required by the Planning Board where necessary to assist circulation or to provide access to community facilities. Such walks shall have an easement width of not less than ten (10) feet and be surfaced for not less than four (4) feet in width with material approved by the Planning Board.

## **410 – Commercial and Industrial Subdivisions**

In addition to all other requirements imposed by this Law, all commercial and industrial subdivisions shall comply with the requirements of the sections below:

### 410.1 – Street Systems

- A. Traffic Flow – Traffic movements in and out of commercial and industrial areas should not interfere with external traffic, nor should they create hazards for adjacent residential areas.
- B. Internal Circulation – The design of streets, service drives, and pedestrian ways, should provide for safe and hazard-free internal circulation, including provision for fire lanes where appropriate.
- C. Entrance/Exit – The points of ingress and egress shall be designed prevent commercial or industrial traffic from passing through residential areas.

### 410.3 – Block Layout

Block layout shall, with due consideration of site conditions, provide for the best possible service to customers, traffic and parking circulation, and pick-up and delivery services. In no case shall a block length be

## **Town of Delaware Subdivision Regulations**

less than six hundred (600) feet. Where safety considerations mandate, eight hundred (800) feet may be required as a minimum.

### **410.4 – Lot Size**

Lot sizes shall be based on the following factors:

- A. Adequate Space – The total area shall be sufficient to provide adequate space for off-street parking and loading, landscaping, and other facilities.
- B. Consolidated Design – Whenever possible, commercial parcels should include enough land to provide for a group of commercial establishments, planned, developed, and operated as a unit.

### **411 – Multiple Dwellings**

The multiple dwelling standards contained in Town of Delaware Zoning Law shall apply to all multiple dwelling residential subdivisions and townhouse developments, but no building permits for the same shall be issued until preliminary plan approval has first been obtained under this Law. No certificates of use or occupancy shall be granted until final plan approval has been first obtained hereunder.

### **412 – Mobile Home Parks, Campgrounds and Recreational Vehicle Parks**

Mobile home parks, campgrounds and recreational vehicle park subdivisions are regulated pursuant to separate Local Laws and/or special zoning provisions.

### **413 – Model Homes**

Any developer may erect a single model home or dwelling unit within a subdivision for purposes of promoting sales within such subdivision. Such model home or unit may be erected upon preliminary approval with a building permit from the Town but shall, however, be situated on a lot or individual site planned for a dwelling and so identified on the plans submitted. Such model home, as well as the lot or site on which it is erected, shall meet all standards contained herein or in other Town of Delaware regulations and be capable of being eventually sold or used at its proposed location. The model home or unit shall also be connected to all utilities and provided with sewage and water services as well as road access prior to its use in the desired location or a performance guarantee shall be posted with the Town providing for the same.