

**DEPARTMENT OF TRANSPORTATION**  
**DIVISION OF PLANNING AND POLICY**

Statutory Authority: 17 Delaware Code, Sections 132(e), 507, 508 and 29 Delaware Code, Section 8404(8) (17 Del.C. §§132(e), 507 & 508; 29 Del.C. §8404(8))  
2 DE Admin. Code 2309

**FINAL**

**ORDER ADOPTING REVISIONS TO REGULATIONS**

**2309 Development Coordination Manual**

Pursuant to the authority provided by 17 Del.C. §132(e), 507, and 508, as well as 21 Del.C. §8404(8), the Delaware Department of Transportation (“the Department”), adopted the Development Coordination Manual. The Department issues this Order adopting revisions to regulations regarding development coordination.

The Department published the proposed revisions in the June 1, 2018, Delaware *Register of Regulations*, pages 962-967.

Written comments were received during the public comment period and evaluated. The results of that evaluation are summarized in the below “Summary of Evidence.”

**Summary of the Evidence and Information Submitted**

The current regulations were enacted in April of 2016, with an update in May of 2018. The proposed revisions to the Development Coordination Manual address procedural changes, add or modify technical requirements and clarify and amend design criteria. These collective changes are both technical and administrative in nature and serve in part to clarify the intent of the Department as enacted through these regulations.

Public comment and DelDOT responses are as follows:

**D.J. Hughes, P.E., Associate, Davis Bowen & Friedel, Inc**

**Comment:** I noticed that per Figure 3.2.5-a it appears the word “MINOR” should be added to the Figure 3.2.5-c between “TWO-LANE” AND “ARTERIALS”. It looks like Chapter 3 could also use an additional Typical Section figure (or at least a note on Figure 3.2.5-c for Principal Arterial ROW) illustrating 50’ ROW from centerline and 100’ ROW total.

**Response:** Thank you for your comment. We agree that the word “Minor” should be added to Figure 3.2.5-c. At this time, we will not be adding an additional Typical Section figure to the regulations.

**Findings of Fact and Conclusions of Law**

Based on the record in this docket, I make the following findings of fact:

1. The public was given notice and the opportunity to provide comments in writing concerning the proposed revisions.
2. The proposed revisions are useful and proper and the Department believes that the adoption of these revisions is appropriate.

**Decision and Order Concerning the Regulations**

NOW THEREFORE, under the above-described statutory authority, and for the reasons set forth above, the Secretary of the Delaware Department of Transportation does hereby ORDER that these revisions to the Development Coordination Manual be adopted and promulgated as set forth below, to be effective May 11, 2019.

It is so ordered this 10<sup>th</sup> day of April 2019.

Jennifer Cohan, Secretary  
Delaware Department of Transportation

**SUMMARY OF FINAL CHANGES TO THE DEVELOPMENT COORDINATION MANUAL**

Sec/Fig	Para.	DelDOT Comment/Proposed Change	Justification
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3.1	-	<p><del>“In most cases, if the requirements of this chapter are met, the result will be the issuance of a letter of “No Objection to Recordation” from DeIDOT to the local land use agency.”</del></p>	Removed text for clarification
3.1	-	<p>The letter of “No Objection to Recordation” is not a DeIDOT endorsement of the project. Rather, it is a recitation of the transportation improvements which the applicant may be required to make as a pre- condition to recordation steps and deed restrictions as required by the respective county/ municipality in which the project is located. If transportation improvements are necessary, they are based on an analysis of the proposed project, its location, and its estimated impact on traffic movements and densities.</p>	Moved text from 3.4.1 to 3.1 for clarification
3.1	-	<p>The required improvements conform to DeIDOT’s published rules, regulations and standards. Ultimate responsibility for the approval of any project rests with the local government in which the land use decisions are authorized. There may be other reasons (environmental, historic, neighborhood composition, etc.) which compel that jurisdiction to modify or reject this proposed plan even though DeIDOT has established that these enumerated transportation improvements are acceptable.</p>	Moved text from 3.4.1 to 3.1 for clarification
3.2.4.1		<p>“Right-of-way monuments shall be set and/or placed by a Professional Land Surveyor (PLS) licensed in Delaware.”  “Right-of-way monuments shall be set and/or placed by a Professional Land Surveyor (PLS) licensed in Delaware <b>and located on a monumentation plan to be provided with the as built.</b>”</p>	Clarification
Figure 3.2.5-a		<p>Added a Functional Class for Principal Arterial and a corresponding Minimum Dedicated Right of Way</p>	Clarification

Figure 3.2.5-c		The word “MINOR” has been added to Figure 3.2.5-c between “TWO-LANE” AND “ARTERIALS”.	Clarification
3.2.5.2		<p>“Per 17 <b>Del.C.</b> §530, DeIDOT cannot require a dedication of land along a State-maintained roadway for a minor subdivision plan <del>that meet the requirements set forth in 17 Del.C.§ 530, for farms that are (1) subdivided into smaller farms, and (2) subdivided merely for the purpose of transferring land to family members for their use as a primary residence or residences,</del> unless DeIDOT can adequately demonstrate that additional right-of-way is necessary due to safety concerns caused by the proposed subdivision.”</p>	Removed language that was not consistent with 17 <b>Del.C.</b> §530
3.2.7.2 C		<p>“A <b>minimum</b> 10-foot permanent easement shall be provided along each side of all streets to allow DeIDOT personnel to undertake routine and emergency maintenance work and shall also be available for utility and construction purposes, and permanent placement of signs and traffic control devices.”</p>	Added ‘minimum’ for clarification
3.3.1		<p>“An initial stage fee calculation form which is available online (for more information go to <a href="http://devcoord.deldot.gov">http://devcoord.deldot.gov</a> &gt; Forms) and fee payment is to be submitted <del>with the electronic submission in accordance with the submission process outlined in the preface of this manual through DeIDOT’s online submission portal.</del>”</p>	Clarification
3.3.2		<p>“The plan for a minor residential <del>strip</del> development on a State-maintained roadway shall include the items as specified in Section 3.4.2.1 <del>A., B., C. and D.</del>, as well as the following <b>note:</b></p> <p><del>A. The following note shall be added to the minor subdivision record plan:</del></p> <p><i>If the residual lands of the applicant are ever developed into a major subdivision, then the access to the minor subdivision parcels may be required to be from an internal subdivision street.</i></p> <p><del>B. The access to subdivided lots along the streets shown on the Functional Classification Network shall be clearly portrayed on subdivision plan. See Chapter 7 for detailed access requirements.”</del></p>	Clarified which portions of Section 3.4.2.1 are applicable to Minor Subdivisions

3.4		<del>“A residential subdivision of 6 or more lots will require construction of internal streets.”</del>	Added language for clarification
3.4	-	Deleted all language referring to the LONC process.	Removed text to reduce possibly of errors. All applicable LONC language is in P.6
3.4.1	-	Added language to create the Record Plan – RED submittal.	Create an optional process for commercial developments where the local land use agency does not require site plan recordation
3.4.2	-	Added language for the submittal requirements for the Record Plan - RED	Create an optional process for commercial developments where the local land use agency does not require site plan recordation
3.4.2.1	-	Added language for Record Plan – RED and site plan content	Create an optional process for commercial developments where the local land use agency does not require site plan recordation
3.5.1	-	Deleted this Section	Removed text for clarification
3.5.4.2 A, 3.5.4.2 B, and 3.5.4.2 C		<del>“Regardless of the location of the project or whether a project is required to actually construct a SUP/SW, a Permanent Easement (PE) is required per Section 3.2.5.1.2 of this manual. The proposed Permanent Easement (PE) shall be shown (on the Record Plan or Site Plan) and recorded via separate deed or recorded plat.”</del>	Removed redundant text
3.5.4.2 D		<del>“Shared-use paths and sidewalks shall be constructed in accordance with Chapter 5 of this manual and shall meet Americans with Disabilities Act the Pedestrian Accessibility Standards requirements.”</del>	Clarified that the Pedestrian Accessibility Standards are the standard for the Department
3.5.4.2 F		<del>“Shared-use paths and sidewalks shall be free of utility poles, bushes, plants, and all other obstructions.”</del>	Deleted due to overlap in PAS
3.5.4.3		<del>“Walkways are recommended between parts of a site where the public is invited or allowed to walk. Walkways should be included as part of office/warehouse and retail/warehouse combinations. Walkways are not recommended between buildings or portions of a site such as truck loading docks and warehouses that are not intended or likely to be used by pedestrians or are considered to be unsafe for use by pedestrians.”</del>	Removed text for clarification

3.5.4.3 C and 3.5.4.3 E		Deleted Part C and Part E	Removed text for clarification
3.7.1		“Maintenance Agreement will be established for the landscaping in the median.”	Added text to clarify and existing standard
3.8		“Private stormwater management facilities, <del>excluding filter strips and bioswales</del> , shall be located a minimum of 20 feet from the State right-of-way, as measured to the top of slope of the facility.”	Removed the exclusion for certain stormwater facilities

**\*Please Note: Due to the size of the final regulation it is not being published here. The following links to the final regulation are provided below:**

Preface (<http://regulations.delaware.gov/register/may2019/final/Preface.pdf>)  
Chapter 3: (<http://regulations.delaware.gov/register/may2019/final/Chap3.pdf>)  
**22 DE Reg. 954 (05/01/19) (Final)**