

Delaware Code



HOME PAGE PAGE TOC

[§ 501.](#) | [§ 502.](#) | [§ 503.](#) | [§ 504.](#) | [§ 505.](#) | [§ 506.](#) | [§ 507.](#) | [§ 508.](#) | [§ 509.](#) | [§ 510.](#) | [§ 511.](#) | [§ 512.](#) | [§ 513.](#) | [§ 514.](#) | [§ 515.](#) | [§ 516.](#) | [§ 517.](#) | [§ 518.](#) | [§ 519.](#) | [§ 520.](#) | [§ 521.](#) | [§ 524.](#) | [§ 525.](#) | [§ 526.](#) | [§ 527.](#) | [§ 528.](#) | [§ 529.](#) | [§ 530.](#)

TITLE 17

Highways

CHAPTER 5. HIGHWAYS, ROADS AND BRIDGES GENERALLY

§ 501. Use of public road or bridge by railway.

No public road or bridge shall be used or occupied by any electric or other railway without the consent of the Department being first obtained, and such operation shall be subject to such regulations and conditions as the Department may from time to time prescribe. (19 Del. Laws, c. 677; Code 1915, § 1577; 40 Del. Laws, c. 107, § 1; Code 1935, § 1669; 17 Del. C. 1953, § 501.)

§ 502. Closing of roads during repair.

(a) Whenever, in the judgment of the Department, it is necessary to close a road or a portion thereof which is being constructed, improved or repaired by the Department, upon the adoption of a resolution by the Department to the effect that it is necessary to close such road, or portion thereof for either of the aforesaid reasons, the Department, or those having charge of the construction, improvement or repair, shall have the right to close such road, or portion thereof, to public travel by the erection of barriers or otherwise.

(b) Whoever, being other than an ordinary foot traveler, uses such road, or portion thereof while the same is closed pursuant to the resolution for any purpose whatever shall be fined not more than \$100.

(c) Nothing herein contained shall in any way affect the right of persons using the road or portion thereof so closed for the purpose of necessary ingress, egress or regress to any property located thereon. (29 Del. Laws, c. 108; 40 Del. Laws, c. 107, § 1; Code 1935, § 1666; 17 Del. C. 1953, § 502.)

§ 503. Nuisance; penalty.

Whoever encroaches upon, or obstructs or commits any nuisance in, a public road or willfully obstructs or injures a public bridge shall be fined not less than \$15 nor more than \$50. In case of a continuing nuisance, the judge shall order the person to abate the nuisance within a given time, and, on failure to do so, a writ of execution shall be issued to the sheriff commanding the person to abate the same. The sheriff's fee for executing the writ shall be \$3 a day and all expenses, to be paid by the defendant, which payment may be enforced by attachment and imprisonment. (Code 1852, § 1133; Code 1915, § 1575; Code 1935, § 1664; 17 Del. C. 1953, § 503; 70 Del. Laws, c. 186, § 1.)

§ 504. Entry upon contiguous or adjacent lands or streams; assessment of damages; hindering or obstructing work; penalty.

(a) In order to obtain the free passage of water for drainage of any road or causeway under its jurisdiction, the Department or its agents may enter upon any lands contiguous or adjacent to such road or causeway in order to maintain or repair any existing artificial or natural ditch, drain, culvert or sewer.

(b) In order to keep the waters of ditches, drains, streams and creeks within their proper channels, thereby preventing them from encroaching upon or flooding any road or causeway under its jurisdiction, the Department or its agents may enter upon and occupy the beds of any ditches, drains, streams and creeks contiguous or adjacent to such roads or causeways and perform such work of construction, improvement or maintenance as may be necessary or desirable to prevent such encroachment or flooding.

(c) Damages, if any, sustained by the owner of such contiguous or adjacent lands or ditch, drain, stream or creek beds as the result of operations under subsections (a) or (b) of this section, or both, shall be adjusted by agreement between the Department or its agents and such owner. If, however, the Department or its agents is unable to agree with such owner as to the damages sustained, if any, and the damages claimed are less than \$1,000, the issue of damages, shall be submitted to the Court of Common Pleas. Such Court of Common Pleas shall have full and complete jurisdiction to hear and determine such issue of damages, if any. In order to invoke the jurisdiction of such Court of Common Pleas, the Department or its agents shall apply to it for a summons directed to the sheriff of the county commanding the sheriff to summon such owner to appear before the Court at a time and place specified in such summons, not less than 5 days nor more than 15 days from the date thereof, for the purpose of having the issue of damages, if any, determined. Such Court shall determine the issue of damages, if any, in accordance with the procedures contained in the statutes governing the trial of civil actions before Courts of Common Pleas generally.

(d) The judgment of the Court of Common Pleas shall not become final until 15 days after it has been handed down. While the case is pending and during the 15-day period after judgment, the owner may file a demand in writing with the Court of Common Pleas and with the Department that the case be brought before the Superior Court as a condemnation proceeding under Chapter 61 of Title 10. During the same period the Department shall also have the right to abandon the proceedings and proceed with condemnation in the Superior Court. Upon timely demand or abandoning as herein provided, the Department shall proceed with condemnation under Chapter 61 of Title 10. If such demand or abandoning is done after the judgment is handed down but before the end of the 15-day period, the judgment of the Court of Common Pleas shall be vacated.

(e) In cases where the owner claims damages of more than \$1,000, the Court of Common Pleas shall have no jurisdiction and all proceedings where there is a failure to agree on damages shall be under Chapter 61 of Title 10.

(f) The amount of damages ultimately determined or agreed upon shall be paid out of funds appropriated to the Highway Department by the State Treasurer to such owner, when properly notified by the Department or its agents.

(g) Whoever hinders or delays the Department or its agents in the construction, repair or maintenance of any such ditch, drain, culvert or sewer or whoever stops, fills up, injures or obstructs any such ditch, drain, culvert or sewer, or whoever obstructs, diverts or changes the course of any such stream or creek without authority from the Department or its agents shall be fined not more than \$100 for every such offense. (Code 1852, § 1126; Code 1915, § 1571; 27 Del. Laws, c. 174, § 5; 40 Del. Laws, c. 107, § 1; Code 1935, § 1662; 17 Del. C. 1953, § 504; 50 Del. Laws, c. 504, § 1; 57 Del. Laws, c. 671, § 4A; 70 Del. Laws, c. 186, § 1.)

§ 505. Selling of nonuniform traffic-control devices; penalty.

Whoever sells or offers for sale for use on any public highway in this State any traffic-control device which does not conform to the Delaware Manual on Uniform Traffic-Control Devices for Division of Highways shall be fined not less than \$25 nor more than \$1,000 and shall make restitution to the purchaser in an amount equal to the entire sum originally paid for the device or devices. In the event a sale consists of the sale of more than 1 separate device, each sale of each separate device shall constitute a violation of this section. (Code 1852, §§ 1081, 1082; Code 1915, § 1568; Code 1935, § 1661; 17 Del. C. 1953, § 505; 60 Del. Laws, c. 700, § 1.)

§ 506. Maintenance priority of roads used for school buses or mail routes.

All roads under the jurisdiction of the Department over which school buses and mail routes are established shall have first consideration in the expenditure of state road funds for the purpose of making and maintaining the roads passable at all times. (36 Del. Laws, c. 130; Code 1935, § 1658; 17 Del. C. 1953, § 506.)

§ 507. Coordinating new development with local transportation improvements.

(a) Legislative findings. --

(1) Under Chapters 1 and 5 of this title, the Department of Transportation reviews and approves entrance design and internal transportation network requirements for new and existing real property developments. This review process often identifies necessary additional improvements to the local transportation system to accommodate the predicted impact of the new development. Under normal conditions, the new development may not in and of itself cause the need for new local transportation improvements, but instead acts as a triggering event in combination with pre-existing traffic growth patterns in the area.

(2) On occasion, there is insufficient right-of-way for the construction of these off-site improvements, or the Department's own schedule for making the improvements as part of its capital program is on a different schedule than the entity seeking development approval. Under appropriately defined conditions, it is proper that the entities seeking development approval contribute toward the cost of obtaining the necessary rights-of-way in lieu of altering the timing of the state's own investments in such improvements.

(3) Under appropriately defined conditions, the Department should also be able to use its full powers to obtain the necessary rights-of-way for such improvements, triggered by the combination of pre-existing traffic conditions and the proposed new development, as well as to oversee the installation of the required improvements.

(4) Even when there is sufficient right-of-way for the required improvements, there are other compliance issues that the local land use approval process may not fully take into account, such as the impact of the improvements on the state's ability to comply with federal Clean Air Act [42 U.S.C. § 7401 et seq.] regulations, or the linkage between the proposed development and the state's own land use planning and development policies.

(5) Therefore, the Department should enact appropriate rules and regulations to determine where and under what conditions it will use its powers to acquire real property interests for the construction of such improvements, to enforce the maintenance of safe operating conditions for the traveling public during the construction of these improvements, and to assure continued compliance with applicable environmental and

other legal requirements implicated by these improvements.

(b) Implementation. -- The Department of Transportation is authorized and directed to enact rules and regulations to complement its existing authority under Chapters 1 and 5 of this title relating to new developments and their impacts on the local transportation network, as follows:

(1) If the predicted impact of a new development creates a need for additional improvements within the local transportation network for which additional rights-of-way must be acquired, the regulations shall outline the procedures for the use of the Department's powers under § 137 of this title for this purpose, using contributed funds from the entity triggering the need.

(2) In using this authority, such additional improvements shall be limited to those that do not implicate the State's ability to comply with the air quality conformity regulations of the federal Clean Air Act [42 U.S.C. § 7401 et seq.].

(3) Furthermore, the use of the authority granted pursuant to this section is limited to those geographic areas defined by the state's land use policies as appropriate for the type and extent of the proposed development.

(4) As part of the approval process for projects built pursuant to this authority, the Department shall consult with state and local governmental representatives in the area of the proposed improvements. The Department shall also establish procedures for public notice and comment on the potential impacts of the development and the proposed changes to the local transportation network.

(5) The regulations shall also provide for 2 alternative methods of constructing the necessary improvements.

a. The preferred alternative shall be an agreement with the entity seeking development approval to assume direct responsibility for planning, design, inspection, and construction of the improvements. At a minimum, the agreement shall also include terms giving the Department appropriate provisions for quality assurance and quality control of the construction of the additional local improvements.

b. If the Department determines in its discretion that such an agreement is not feasible and practical under the circumstances, it may instead assume responsibility for the scheduling, planning, design, construction, and inspection of the off-site improvements as a regular Department project, to be wholly funded by the entity seeking development approval. (74 Del. Laws, c. 404, § 1.)

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

(a)(1) No person, firm or corporation shall construct, or cause to be constructed any new road or street outside the corporate limits of any city or town and intended to be dedicated by the owner thereof to the public use, including the initial installation of traffic and street name signs, unless such road or street is in conformity with plans and specifications approved by the Department and with this section. At a minimum, the initial installation of street name signs must include the placement of such signs at each intersection of the new street with any other street, capable of being read from each direction on any street at each intersection. The new road or street shall be a continuation of an existing or proposed public road designed to be part of the general highway system of the State. Such construction shall be performed pursuant to a written agreement, signed

by the developer as hereinafter defined incorporating but not limited to the plans and specifications approved by the Department, the posted security for completion, the location of any decorative subdivision entrance signs installed by the developer, and whatever other terms the Department, in its sole discretion, determines may be necessary. The owner or person actually engaged in any development or construction of residential or commercial property as determined by the Department which will affect or require access onto state-maintained highways, streets and roads shall be known as the "developer" for purposes of this section.

(2) Pursuant to the terms of this section and such rules, regulations, standards and/or regulations as may be adopted by virtue thereof, the Department shall accept such roads or streets constructed in compliance herewith into the state maintenance system; provided, however, that with regard to any road or street constructed to serve any dwelling, building or facility, etc., other than single family residences, the Department shall have the sole discretion as to whether such road or street shall be accepted into the state maintenance system.

(b) Before commencement of any construction undertaken pursuant to this section, including the installation of utilities within the dedicated right-of-way, the developer shall first post with the Department a good and sufficient bond, certified check, letter of credit or other form of security in a manner and form approved by the Department and in such amount as may be fixed, but not to exceed 10% of the estimated cost of such construction as approved by the Department, which bond, certified check, letter of credit or the like, shall be conditioned on the faithful performance and satisfactory completion of the obligations imposed by subsection (a) of this section. In the event the developer, regardless of corporate name, has been adjudged by the Department to be in violation of this section and/or has not maintained a satisfactory record of compliance on repair and construction completion as determined by the Department, then the Department may require a bond, certified check, letter of credit or other form of security, consistent herewith in an amount not to exceed 100 percent of the cost of such construction.

(c)(1) The Department shall inspect any new road or street being constructed in accordance with this section as well as any construction including utilities within the road or street right-of-way to insure that the construction is in conformity with standards, plans and specifications approved by the Department. Upon dedication of the right-of-way to the public use and satisfactory completion of the street or road construction including its connection to an existing state maintained road within the sole judgment, discretion and approval thereof by the Department, the Department shall so notify the developer that the new road or street has been accepted into the state maintenance system and that the dedicated right-of-way has been accepted according to the terms of such acceptance.

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

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

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

thereof.

(5) The Department's standards for newly constructed residential subdivision streets include a decorative sign that includes the name of the subdivision and a logo of the State's famous patriot, Caesar Rodney. These new signs shall be installed at each newly approved subdivision and shall be paid for by the developer or developers of such subdivision. Existing subdivisions may also request the Department to install these new signs in place of other signs previously used by the Department. Such requested replacement signs shall be paid for by the subdivision or from Community Transportation Funds allocated by a legislator requesting such signs. The Department shall replace existing standard signs damaged by vandalism, accident, or the ravages of time with standard signs under its regular maintenance program, unless the decorative alternative has been requested under the provisions of this subsection.

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

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

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

(2) Proceed to forfeiture of the bond, certified check, letter of credit or other form of security;

(3) Move to fine violators pursuant to this section;

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

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

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

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

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

(h) Any developer who is found to be in violation of this section by the Department shall

thereafter be unable to conduct business in the State until all conditions created by such developer constituting a violation have been corrected to the satisfaction of the Department.

(i) Justice of the Peace Courts shall have jurisdiction over violations of this section to the extent that they are hereby granted the authority to order forfeiture of the security posted pursuant to this section and may impose the fines set forth in subsection (f) of this section. (Code 1935, c. 55; 48 Del. Laws, c. 85, § 1; 17 Del. C. 1953, § 508; 59 Del. Laws, c. 180, §§ 5-7; 60 Del. Laws, c. 630, § 1; 62 Del. Laws, c. 349, § 1; 68 Del. Laws, c. 405, § 52 (a); 69 Del. Laws, c. 409, §§ 1-3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 150, § 74; 71 Del. Laws, c. 318, § 6; 75 Del. Laws, c. 98, § 103.)

§ 509. Highways deemed public roads.

All public roads, causeways and bridges laid out as such, or made by lawful authority, or which have been used as such and maintained at the public charge for 20 years or more are declared to be common highways. The usage by the public for 20 years or more of any road shall not cause the road to become a common highway or public road unless the same has been maintained at the public charge for 20 years or more. (Code 1852, § 1077; Code 1915, § 1566; 29 Del. Laws, c. 106; Code 1935, § 1657; 17 Del. C. 1953, § 509.)

§ 510. Speed limit and weight limits on structure.

(a) The Department may conduct an investigation of any public or private bridge, causeway, viaduct or other elevated structure which crosses any public highway regardless of the owner or the owners of said bridge, causeway, viaduct or elevated structure and regardless of what government has jurisdiction over it.

(b) If it finds that a public structure set forth in subsection (a) of this section cannot safely withstand vehicles traveling at the speed permissible under the Code, or cannot withstand vehicular gross weights, including carried load, permissible under the Code, the Department shall determine and declare the maximum speed or gross weight, including carried load, or both, of vehicles which such structure can withstand and shall cause or permit signs stating such maximum speed or gross weight, including carried load, to be erected and maintained before the entrance to such structure.

(c) If it finds that a private structure as set forth in subsection (a) of this section cannot withstand the usage to which it is being subjected, the Department shall declare the maximum usage to which the structure can be subjected. The Department shall notify the owner and/or user of the private structure, who shall not permit the maximum safe usage as determined by the Department to be exceeded.

(d) Whoever violates subsection (c) of this section shall be fined not less than \$25 nor more than \$500, or imprisoned not less than 10 days nor more than 30 days or both. (Code 1852, § 1131; Code 1915, § 1573; 29 Del. Laws, c. 108; 40 Del. Laws, c. 107, § 1; Code 1935, § 1665; 17 Del. C. 1953, § 510; 57 Del. Laws, c. 671, § 4C; 60 Del. Laws, c. 700, § 2.)

§ 511. Injury to roads and bridges; double damages; jurisdiction of courts; procedure and appeal.

(a) Whoever negligently or willfully injures or damages any public road, bridge or drain, or any gate, light or other appurtenance maintained and used for the convenience or safety of the traveling public in connection with such road, bridge or drain shall forfeit and pay

double damages therefor.

(b) Action for the recovery of such damages, where the road, bridge, drain or other appurtenance is under the jurisdiction and control of the Department, shall be brought in the name of the State, and all money recovered thereby shall be paid to the State Treasurer.

(c) Justices of the peace, the Court of Common Pleas and the Superior Court shall have concurrent jurisdiction of actions under this section, provided that the jurisdiction of justices of the peace shall be limited to cases where the double damage shall not exceed \$2,500, and the jurisdiction of the Court of Common Pleas shall be limited to cases where the double damages shall not exceed the sum of \$15,000.

(d) In actions before Justices of the Peace, the procedure shall be the same as is provided for actions of trespass before Justices of the Peace, with the right of appeal to the Court of Common Pleas, and, in actions before the Court of Common Pleas, the right of appeal to the Superior Court shall be preserved. (Code 1852, § 1131; Code 1915, § 1573; 29 Del. Laws, c. 108; 40 Del. Laws, c. 107, § 1; Code 1935, § 1665; 17 Del. C. 1953, § 511; 66 Del. Laws, c. 265, § 1; 69 Del. Laws, c. 423, § 20; 69 Del. Laws, c. 423, § 20.)

§ 512. Injury to roads, bridges, etc.; penalty.

Whoever willfully damages or injures any public road, bridge, drain, light, gate or other appurtenance used and maintained for the safety or convenience of the traveling public shall be fined not more than \$500. Such fine, upon the collection thereof, shall be paid to the State Treasurer. (Code 1852, § 1131; Code 1915, § 1573; 29 Del. Laws, c. 108; 40 Del. Laws, c. 107, § 1; Code 1935, § 1665; 42 Del. Laws, c. 77; 17 Del. C. 1953, § 512.)

§ 513. Trimming of hedges and removal of trimmings; penalty.

All hedges growing along any of the public roads in this State shall be trimmed at least once in every year to a height of not more than 4½ feet, and the owner, tenant or occupant of any land upon which such hedge is so growing shall so trim such hedge. None of the trimmings removed from such hedge shall be allowed to remain on any of the public roads longer than 2 weeks, but shall be removed therefrom by the party doing the trimming. Nothing in this section shall be construed to compel the owner, tenant or occupant of any land upon which such hedge is so growing to remove from the public roads any of such trimmings that cannot be removed by the use of an ordinary horse rake, and such owner, tenant or occupant shall not be compelled to remove the small trimmings within 5 feet of such hedge.

Where hedges are cut down for the purpose of laying or allowing to thicken, the same may be permitted to grow without trimming for a period of 3 years.

Whoever fails to perform any of the duties imposed by this section shall be fined not more than \$50 and, in default of payment thereof, may be imprisoned not more than 60 days. (32 Del. Laws, c. 203; Code 1935, § 4180; 17 Del. C. 1953, § 513.)

§ 514. Glass or injurious obstruction on public highways; penalty.

Repealed by 60 Del. Laws, c. 701, § 5, eff. Aug. 5, 1976.

§ 515. Maintenance of unfenced junkyards within certain distance of highways; penalty.

(a) No person shall place, store or permit the placing or storage of abandoned or scrapped automobiles, or automobiles that have been junked, or maintain or keep any yard where scrapped, abandoned or junked automobiles are kept or stored within a distance of one-quarter mile from the right-of-way of the nearest improved state or public highway, unless the yard or field wherein such automobiles are kept, placed or stored shall have erected thereon a fence parallel to the improved highway for the full length of the yard or field along the highway, and shall also have a further fence extending back from the parallel fence the full length of that portion of the field used for such storage, or for a distance of 75 feet, whichever distance shall be the shorter, which fence or fences shall be at least 7 feet in height, shall be built of wood and the panels thereof shall be spaced not more than 2 inches apart.

(b) Whoever violates subsection (a) of this section shall, for each separate offense, be fined not less than \$25 nor more than \$200 or imprisoned not less than 10 nor more than 60 days, or both.

(c) Each day that any violation is continued shall be deemed a separate offense and violation of subsection (a) of this section. (41 Del. Laws, c. 194, §§ 1, 2; 17 Del. C. 1953, § 515.)

§ 516. Creation or maintenance of nuisance within certain limits.

(a) No person shall create, erect, maintain or continue a nuisance, as defined in subsection (b) of this section, within 200 feet of either side of the right-of-way of any public highway entering into the City of Wilmington for a distance of 1 mile from the corporate limits of the City, or within the boundaries thereof, upon land of which such person is partner, or persons are the owner, lessee, agent, tenant or occupant.

(b) As used in this section, "nuisance" means any condition of the land, or of the buildings erected thereon, or of the trade or business conducted thereon, or of unsightly articles collected thereon or therein or of obnoxious odors arising thereon, therein or therefrom, which causes any annoyance to the persons making use of any public highway, as mentioned in subsection (a) of this section, by being offensive or obnoxious to the senses of such persons.

(c) The Council of the "Mayor and Council of Wilmington" may abate the nuisance by the enactment of ordinances giving directions for the cleansing, removal or remedy of the matter or thing complained of and providing penalties for violations of its orders to be recovered in the Court of Common Pleas. (35 Del. Laws, c. 90, §§ 1-3; Code 1935, §§ 2465-2467; 17 Del. C. 1953, § 516; 71 Del. Laws, c. 176, § 26.)

§ 517. Boulevard corporations.

Article 10, Chapter 65 of the Revised Code of Delaware 1935 shall continue in full force and effect as to boulevard corporations established according to law and existing at the time of the effective date of this Code. (17 Del. C. 1953, § 517.)

§ 518. Trash within a certain distance of the highway; penalty.

(a) No person shall throw, deposit or place any trash, rubbish or garbage within 100 feet of any public highway in this State.

(b) Whoever violates this section shall be punished as follows: The court shall order the violator within a specified period of time to clean up that section of the public highway or

property within 100 feet of the public highway where the violator has thrown, deposited or placed trash, rubbish or garbage, except that if the violator refuses to do so, or if such is not possible or feasible, or if the violator fails to do so to the satisfaction of the court, the violator shall be fined not less than \$250 nor more than \$500 for each violation and there shall be no suspension of the fine.

(c) Justices of the peace shall have jurisdiction of offenses under this section.

(d) Each day that any violation is continued shall be deemed a separate offense and violation of this section. (17 Del. C. 1953, § 518; 50 Del. Laws, c. 336, § 1; 52 Del. Laws, c. 190; 57 Del. Laws, c. 354, §§ 1, 2; 57 Del. Laws, c. 414; 70 Del. Laws, c. 186, § 1.)

§ 519. William J. Winchester Bridge.

The Department of Transportation is hereby directed to name the bridge which crosses the Christina River at Third Street in the City of Wilmington the "William J. Winchester Bridge." (62 Del. Laws, c. 54, § 1.)

§ 520. Injury to trees, shrubs, and landscaping.

(a) Whoever negligently, wilfully or maliciously injures or damages trees, shrubs or other landscaping under the jurisdiction and control of the Department shall forfeit and pay treble damages therefor. The damages shall be computed as the sum of the cost of purchase of new trees, shrubs or other landscaping of equivalent size and quality and the removal and installation costs to replace the damaged trees, shrubs or other landscaping, including direct labor costs plus overhead costs, computed in accordance with accepted governmental accounting principles.

(b) Justices of the peace, the Court of Common Pleas and the Superior Court shall have concurrent jurisdictions of actions under this section.

(c) In actions before Justices of the Peace, the procedure shall be the same as is provided for actions of trespass before Justices of the Peace, with the right of appeal to the Court of Common Pleas, and, in actions before the Court of Common Pleas, the right of appeal to the Superior Court shall be preserved. (66 Del. Laws, c. 353, § 1; 69 Del. Laws, c. 423, § 21.)

§ 521. Snow removal in nonmunicipal residential communities.

(a) For purposes of this section:

(1) "Department" shall mean the Department of Transportation.

(2) "Organization" shall mean a civic association, neighborhood alliance, homeowners maintenance corporation, homeowners maintenance association or other similar entity charged with or assuming the duties of maintaining the public areas, open space or common facilities within a residential development or community not within the boundaries of a municipality.

(3) "Snowstorm" shall mean a snowstorm event whose accumulation within the relevant maintenance district is equal to or greater than 4 inches, as determined by the Department.

(4) "Streets" shall mean those streets within a residential development or community which have been accepted for perpetual maintenance by the Department.

(b) An organization created pursuant to New Castle County ordinance or regulation shall have the authority to contract for snow removal services and include the cost of such snow removal services in assessments made by such organization to property owners of the residential development or community. Such charges or fees shall be considered assessments for the maintenance of open space and common facilities for collection and lien purposes.

(c) An organization may contract for snow removal services for snowstorms impacting the streets within its development or community and be partially reimbursed for the costs of such services, subject to the following conditions:

(1) The reimbursement shall be in an amount not to exceed 75% of the actual contracted cost of said services, but in any event, shall not exceed 75% of an annual cost analysis determination made by the Department in its implementing regulations under subsection (c) of this section. The regulatory cost determination shall include, but not be limited to, the Department's cost of purchasing similar services under its own contracts.

(2) The organization's contracts with contractors providing these services must include provisions for proof of insurance and compliance with all relevant state license requirements, including, but not limited to, the provisions of Chapter 21 of Title 30.

(3) The selection of contractors for services shall not be subject to Chapter 69 of Title 29.

(4) To obtain economies of scale, an organization may enter into written agreements with other organizations to obtain joint snow removal contracts for purposes of this section.

(d) The Department shall be responsible for the implementation and administration of this section through the adoption and publication of rules, regulations and/or procedures deemed necessary for these purposes. (70 Del. Laws, c. 599, § 1; 74 Del. Laws, c. 68, § 235; 74 Del. Laws, c. 347, §§ 1, 2.)

?? 522, 523. [Reserved.]

§ 524. Removal of non-official signs from utility poles within state rights-of-way.

(a) Legislative findings. -- The General Assembly finds that persons and firms post non-official signs on utility poles without prior authorization from the pole owner. Placing such signs on these poles is unsafe, both for the person attaching the sign and those in the vicinity of such activity when it occurs, including passersby. Therefore, it is appropriate to authorize the Department of Transportation to treat such signs as subject to immediate removal and other enforcement action under §§ 525 through 527 of this title, without regard to the clear zone distance limitations of those sections.

(b) The Department of Transportation may treat any non-official signs placed on utility poles at any location within the State's rights-of-way as artificial obstructions within the clear zone, subject to immediate removal and other enforcement action under §§ 525 through 527 of this title, upon confirmation that the utility company had not previously authorized the placement of such signs. (75 Del. Laws, c. 98, § 121.)

§ 525. Maintenance of clear zones within rights-of-way.

(a) The Department is authorized to maintain clear zones within the rights-of-way under its jurisdiction. In maintaining these clear zones, the Department shall have the immediate authority to remove artificial obstructions placed therein, including, but not limited to, nonofficial signs, poles, mailboxes not placed in conformance with Departmental regulation, or other hazards to safe passage. In removing artificial obstructions, the Department shall attempt to determine the owner of the obstruction and provide written notice and an opportunity for the owner to recover the obstruction after its removal. The Department shall also have the immediate authority to remove or trim vegetation growing within these rights-of-way.

(b) As used in this chapter, the term "clear zone" has the following meanings:

(1) For all roads except those described in paragraph (2) of this subsection, the term includes the total roadside border area within a right-of-way, starting at the edge of the pavement and continuing for a distance of 10 feet perpendicular to the pavement edge.

(2) For all interior streets within residential subdivisions, the term includes the total roadside border area within a right-of-way, starting at the edge of the pavement and continuing for the shorter distance of either:

a. Seven feet perpendicular to the pavement edge, or

b. If there is a sidewalk adjacent to the street, the sidewalk edge further from the street.

(3) The total area within the median strips between traveled ways or on any channelization islands, except as permitted by § 1108(d) of this title.

(c) The owner of any obstruction removed pursuant to this section shall be liable for a civil fine of \$25 for each item so removed, payable to the Department. Justices of the Peace shall have original jurisdiction for any court proceedings relating to this fine. No owner of any such obstruction shall be entitled to the return of any removed obstruction without proof of payment of all outstanding fines.

(d) Recovery by the owner of any artificial obstruction removed by the Department under this section shall be subject to the payment of a \$15 recovery fee per obstruction. If the owner does not pay the fee and recover the obstruction within 30 days of its removal, the Department shall dispose of the obstruction in the exercise of its reasonable discretion. The Department may also take such legal steps as it deems necessary and proper to collect these recovery fees, including but not limited to a debt action in the courts of this State. (71 Del. Laws, c. 318, § 7; 75 Del. Laws, c. 98, §§ 122, 123.)

§ 526. Restrictions against commercial use of State rights-of-way; site-based enforcement mechanisms.

(a) Except as provided in subsection (b) of this section, there shall be no commercial activity within any rights-of-way under the Department's jurisdiction in the unincorporated areas of the State. As used herein, "commercial activity" includes, without limitation, such activities as the placement of news boxes in such rights-of-way for the sale of newspapers, the placement of vending machines in such rights-of-way for the sale of goods, the placement of commercial advertising signs in such rights-of-way or the sale of goods from vehicles parked within such rights-of-way. If a commercial activity occurs within the clear

zone of any such rights-of-way, the Department shall treat the machines, fixtures, signs or other materials used in such activity as an artificial obstruction under § 525 of this title, and may undertake the immediate removal of said materials as authorized therein.

(b) Any of the following commercial uses of the rights-of-way shall be subject to enforcement under Chapter 11 of this title:

- (1) Commercial activities occurring outside the clear zone; or
- (2) The placement of nonofficial signs outside the clear zone; or
- (3) The placement of vending machines at designated locations at safety roadside rest areas, as permitted by § 132(c)(14) of this title; or
- (4) The placement of news boxes outside the clear zone; or
- (5) Signs displayed on any school bus waiting shelter located with the approval of the Department of Education; or
- (6) Nonofficial signs displayed on transit shelters pursuant to Department-approved contracts. (71 Del. Laws, c. 318, § 7.)

§ 527. Coordination with other statutes.

In the event of a conflict between §§ 525 and 526 of this title and Chapter 11 of this title, §§ 525 and 526 shall take precedence. (71 Del. Laws, c. 318, § 7.)

§ 528. Restrictions against vehicle sales activities on State rights-of-way.

(a) No vehicle shall be left unattended on a state right-of-way for the purpose of selling such vehicle.

(b) If a duly authorized employee of the Department of Transportation or a police officer shall determine that an unattended vehicle is on state right-of-way in violation of subsection (a) of this section, the vehicle may be removed from that location without prior notice to the registered owner of the vehicle, and taken to a private storage area maintained for the safe storage of vehicles, as prescribed by the towing and storage procedures in current use by the Delaware State Police or the Department of Transportation. Any costs of the removal and storage shall be borne by the registered owner of said vehicle, who shall be held prima facie responsible for the violation of this section.

(c) The registered owner of any vehicle towed from a state right-of-way pursuant to this section shall also be subject to the enforcement provisions of § 4181 of Title 21.

(d) This section shall not apply to vehicles left unattended on a state right-of-way due to the presence of a disabling condition or otherwise legally parked on the right-of-way. (74 Del. Laws, c. 181, § 1.)

§ 529. Inspection requirements for bridge owners.

(a) As used herein, the terms "bridge" and "bridge with approaches" are defined as structures, including supports, erected over a depression or an obstruction such as water, a

highway or a railway, with tracks or passageways for carrying traffic or other moving loads, and with openings measured along the center of the roadway of more than 20 feet (6.1 meters) between undercopings of abutments or spring lines of arches, or the extreme ends of openings for multiple boxes. The term "bridge" shall also include multiple pipe structures where the clear distance between pipe openings is less than half of the smaller pipe diameter(s), and the combined structure exceeds 20 feet (6.1 meters) in total span length.

(b) All bridges and bridges with approaches located on or over public roads must be inspected in accordance with The National Bridge Inspection Standards, as codified in 23 C.F.R. Part 650, Subpart C, as amended, and in accordance with the following provisions:

(1) Such inspections shall be the responsibility of the bridge owner.

(2) The inspections shall be performed by qualified personnel not less frequently than every 2 years, based on the bridge condition and on the schedule set by the Department of Transportation.

(3) Inspection information must be collected, maintained and be available for review as required by the Federal Highway Administration's Recording and Coding Guide for Structure Inventory and Appraisal of the Nation's Bridge.

(4) If the bridge owner does not perform the required inspection on the schedule approved by the Department of Transportation, the Department shall notify the bridge owner and give the bridge owner 60 days to produce the required inspection report.

(5) If the bridge owner fails to produce the required inspection report after notice pursuant to subsection (b)(4) of this section, the Department shall be empowered to take the following enforcement actions:

a. Perform the inspection, the costs of which shall be borne by the bridge owner. The Department shall have the right to enter the property to perform such inspections, regardless of the ownership of the property; or

b. Close the bridge. (72 Del. Laws, c. 201, § 1.)

§ 530. Dedication of right-of-way adjacent to a state highway.

Notwithstanding any rule, law, or provision to the contrary, the dedication of a right-of-way along a state highway by any property owner pursuing a subdivision of their land, shall not be required where the property being subdivided is a farm or farmland and a right-of-way is not deemed by the Department to be necessary due to safety issues that would be directly caused by the requested subdivision and:

(1) The parcel is subdivided into no more than 2 parcels which are continued to be used as a farm or farmland; or

(2) The subdivided parcel or parcels are transferred to a family member or members for purposes of use as a family member or members' principal residence or farmland.

The Department shall have the burden of proof to establish by clear and convincing evidence that a right-of-way is necessary due to safety issues directly caused by the requested subdivision. Should the Department require a right-of-way dedication pursuant

to this section and fail to meet its burden of proof in a court proceeding then the property owner shall be entitled to reimbursement of their reasonable costs including but not limited to reasonable attorney fees incurred as a result of the Department's action. (75 Del. Laws, c. 39, § 1.)

NOTICE: The Delaware Code appearing on this site was prepared by the Division of Research of Legislative Council of the General Assembly with the assistance of the Government Information Center, under the supervision of the Delaware Code Revisors and the editorial staff of LexisNexis, includes all acts up to and including 76 Del. Laws, c. 191, effective February 6, 2008.

DISCLAIMER: Please Note: With respect to the Delaware Code documents available from this site or server, neither the State of Delaware nor any of its employees, makes any warranty, express or implied, including the warranties of merchantability and fitness for a particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately-owned rights. This information is provided for informational purposes only. Please seek legal counsel for help on interpretation of individual statutes.