INITIAL IMPLEMENTATION GUIDANCE

House Substitute No. 1 for House Bill No. 450

the "Reforming Opportunities and Accelerated Development for Delaware Act" (ROAD-DE Act)

70 Del. Laws, c. 344

and

Senate Substitute No. 2 for Senate Bill No. 23

the "Housing for Every Delawarean Act"

70 Del. Laws, c. 343

Signed into law by Governor Matt Meyer on July 13, 2026

About This Guidance

On July 13, 2026, Governor Matt Meyer signed two land use and housing bills into law: House Substitute No. 1 for House Bill No. 450 (the ROAD-DE Act) and Senate Substitute No. 2 for Senate Bill No. 23 (the Housing for Every Delawarean Act). Together, these laws are the most significant changes to Delaware's land use and permitting framework in a generation, addressing both how long it takes to get a project approved and how much affordable housing gets built.

This document provides a plain-language summary of what each law does and initial implementation guidance for the state agencies, counties, and municipalities responsible for carrying it out. It is intended as a starting point for compliance planning, not a substitute for the statutory text or for legal advice. Local jurisdictions and agencies should consult the full text of each Act, applicable Delaware Code provisions, and their own counsel before taking formal action.

At a Glance

	HB 450 — ROAD-DE Act	SB 23 — Housing for Every Delawarean Act
Focus	Speeds up permitting: traffic impact study thresholds, DelDOT technology, statewide transportation impact fees, baseline residential density	Increases affordable housing supply: comprehensive-plan affordable housing plans, by-right review, rezoning conformance deadlines
Lead state agency	DelDOT, with input from DSHA, Office of State Planning Coordination (OSPC)	Delaware State Housing Authority (DSHA) and OSPC, with Governor's certification role
Who must act	DelDOT; New Castle, Kent & Sussex Counties; all municipalities that regulate zoning/traffic impact	Counties and municipalities with population greater than 2,000 that adopt comprehensive plans
Signed / Chapter	July 13, 2026 — 70 Del. Laws, c. 344	July 13, 2026 — 70 Del. Laws, c. 343

HB 450 — The ROAD-DE Act: Key Points

The Reforming Opportunities and Accelerated Development for Delaware Act builds on Governor Meyer's Executive Order No. 18 and the Permitting Accelerator initiative. It responds to findings that Delaware's permitting process can stretch beyond 24 months — significantly longer than neighboring Maryland and Pennsylvania — due to structural misalignment and sequential review across agencies, not isolated performance problems.

1. Traffic impact studies move to a peak-hour standard

DelDOT, counties, and municipalities must base the threshold for requiring a traffic impact study on peak-hour trips rather than total daily vehicle trips. The statewide minimum threshold, which will be further delineated in regulatory guidance, is:

- 500 peak-hour trips for residential development.
- 500 peak-hour trips, excluding pass-by trips, for all other development types.

Traffic impact studies are not required for projects within a Downtown Development District or Downtown Development Corridor (as defined in 22 *Del. C.* § 1902).

2. Statewide transportation impact fee program

DelDOT must establish transportation impact fees statewide, calibrated per county based on a reasonable, proportionate share of the cost to bring transportation infrastructure up to state standards. Key features:

- Fees may vary by county and by whether the site is inside or outside a designated growth area; DelDOT must publish its fee formula and reevaluate it at least every 5 years, with annual increases capped at CPI + 2%.
- Revenue is deposited into a new Transportation Impact Fee Fund and spent in the county where it was collected, and as long as zoning is adjusted for density and TIS requirements, in consultation with the applicable county/municipal government.
- Revenue-sharing consultation is conditioned on local compliance: if a county or its municipalities have not adopted conforming traffic impact study and residential density ordinances by June 1, 2027, DelDOT may instead direct that county's fee revenue at its own discretion.
- A 2% surcharge on the transportation impact fee funds farmland preservation, open space/land and water conservation, coastal and shoreline resilience, sidewalks/bike pathways, and the Brownfields Development Program.
- DSHA-financed residential development qualifies for a waiver or reduction of the fee.
- Fees are due before a building permit is issued.

3. Minimum residential density in growth areas

Within designated "growth areas" (areas identified in a county or municipal comprehensive plan and consistent with Investment Levels 1 and 2 under the Strategies for State Policies and Spending), local zoning must:

- Permit a variety of housing types — townhouses, multifamily dwellings, stacked flats, apartments, and mixed-use residential.
- Set bulk, dimensional, and design standards that reasonably accommodate those housing types at required densities.
- Encourage development patterns that reduce vehicle trips and support transit-oriented, pedestrian-connected, mixed-use development.

Baseline density: A minimum of 4 units per acre for single-family homes within growth areas, with higher thresholds for other housing types. DSHA is required to publish guidance to assist communities with this effort.

Note: Density requirements in HB 450 give local control deference on how to meet these density requirements **while recognizing** that varying development densities (e.g., greater than or less than 4u/acre as reviewed on a case by case basis with justification) may be appropriate within different portions of a designated growth area of the county or municipality.

4. DelDOT technology and data authority

DelDOT is directed to deploy and maintain automated monitoring, sensor, and analytics systems (including the Delaware Public Crash Database) and is authorized to use automated data collection, remote sensing, digital imaging, and algorithmic analysis in required traffic and engineering studies.

HB 450 — Key Implementation Deadlines

Date	Requirement
January 1, 2027	DelDOT must establish the statewide transportation impact fee (in and outside designated growth areas).
June 1, 2027	Counties and municipalities must adopt residential growth-area density requirements and traffic impact study ordinances/regulations consistent with the Act, by regulation or through the comprehensive plan and subsequent rezoning/ordinance update process if due that year.
June 30, 2027	Deadline (updated from a 1988 reference) for counties to have an agreement with DelDOT governing rezoning traffic analysis, or to designate a Complete Community Enterprise District instead.
Ongoing	DelDOT publishes its transportation impact fee formula and reevaluates it at least every 5 years.

SB 23 — The Housing for Every Delawarean Act: Key Points

SB 23 responds to Delaware's Statewide Housing Needs Assessment finding that 50% of Delaware renters and 21% of Delaware homeowners are cost-burdened, and to an estimated shortfall of nearly 20,000 affordable units for renters earning below 50% of Area Median Income (AMI). It builds on the voluntary technical-assistance pilot created by Senate Joint Resolution No. 8, extending a mandatory — but locally flexible — framework statewide.

1. Affordable housing plans become part of the comprehensive plan

Each covered jurisdiction must adopt an affordable housing plan, developed in collaboration with DSHA, as part of its comprehensive plan. The plan must set a concrete, measurable strategy aimed at two statutory objectives:

- Make measurable progress toward a strategic goal of 20% of all housing units in the jurisdiction qualifying as affordable housing (affordable meaning at or below 80% of AMI for rentals, 120% of AMI for homeownership units).
- Diversify the types of housing available in the jurisdiction.

Jurisdictions adopt their first affordable housing plan concurrently with their next comprehensive plan (thereafter, with every comprehensive plan update). Jurisdictions on track to adopt their next comprehensive plan before February 1, 2027 are not required to comply with the plan-content requirements of § 9222 until their next 5-year comprehensive plan review.

Implementation of the Affordable Housing Plan is an ongoing process through the zoning and ordinance process with annual reporting as required by SB 23. Ordinances and zoning decisions can be adapted and addressed as needed to meet the plan.

2. Three mandatory plan elements

Among other requirements, every affordable housing plan must address all three of the following:

- Increase maximum permitted residential density (more units per acre) to support an affordable, diverse housing stock. This must, due to the changes in HB 450, start at 4 units per acre and then will be addressed from there by local ordinance.
- Authorize a mix of housing types — single-family detached and attached, duplexes, triplexes, multifamily, accessory dwelling units, cottage housing, and manufactured housing — without requiring a conditional use permit or special exception.
- Evaluate bulk standards (lot size, setbacks, unit size, lot coverage, height, open space) as they relate to achieving the required density.

3. Choose at least 5 of 11 additional strategies

Jurisdictions select at least five of the following eleven tools (or DSHA may approve a locally developed alternative under item 11) as part of the affordable housing plan:

- Density bonuses or incentives (extra units/acre, height, reduced parking/open space) for developments that include affordable units.
- Transit-oriented development zoning with significant density increases along fixed transit routes.
- Expedited/accelerated permit review for developments that include affordable units.
- Fee waivers, reductions, or deferrals for developments that include affordable units.
- Reduction or waiver of local impact fees for affordable units.
- Form-based codes or alternative development standards in designated growth areas.
- Allowing single-room occupancy housing by-right in at least one residential zone.
- Allowing transitional housing, emergency shelters, group homes, recovery homes, or other supportive housing by-right in at least one residential zone.
- Allowing conversion of commercial, office, or retail space to residential or majority-residential mixed use.
- Designating (or substantially expanding) at least one zone where multifamily housing is a by-right permitted use.
- Any other DSHA-approved strategy for increasing and diversifying affordable housing.

Jurisdictions get credit toward these requirements for qualifying actions already taken on or after July 17, 2024.

4. By-right review for permitted residential uses

A residential development application for a use that is already permitted “by-right” under the local zoning ordinance must go through an administrative review and approval or public meeting process. By-right projects are projects that are fully code and zoning compliant without any condition or variance; they are required to be approved by local governments by law and Supreme Court precedent. Local jurisdictions may still route such applications through a planning commission or similar body, but that review must be limited to objective, measurable compliance standards for planning and zoning. Public meetings are allowed but may not be conducted as formal public hearings, and for public comment to be considered part of the record for the project it must be written and related to the objective, measurable compliance standards for the planning and zoning. Oral public comments will still be accepted at the public meeting as part of the meeting record but will not be attached to the project itself.

Land use decisions are not a single event; they are a multi-step process. Public hearings play an essential role when communities make policy decisions, such as adopting comprehensive plans, establishing zoning districts, amending zoning ordinances, considering rezonings, or reviewing conditional uses, special exceptions, and variances. Those are the decisions where communities should direct public engagement relative to parcel or property uses.

Counties and municipalities are encouraged to determine the circumstances on which the local government considers projects to be by-right or conditional. Local government may place limits on where and how those circumstances exist; recognizing that there must be some by-right allowances as required by 29 *Del. C.* § 9223.

5. County rezoning conformance deadlines

New Castle, Kent, and Sussex Counties must rezone land to match their comprehensive plan's future land use map within 12 months of adopting or revising that plan (shortened from 18 months). If a county misses that deadline:

- A property owner's rezoning application consistent with the future land use map must be approved unless the county makes written, evidence-based findings that the request is inconsistent with the plan or fails procedural/submission requirements.
- The county has 21 days to determine an application complete (or it is deemed complete automatically).
- The county must take final action within 120 days of completeness, absent a written extension agreed to by the applicant. The county is also responsible for establishing a reasonable communications strategy for how these actions will be taken through hearing and notice requirements.
- Any denial must be in writing and cite the specific plan designation or standard relied on.

6. Comprehensive plan certification

The Governor continues to review and certify comprehensive plans, now based on consistency with statutory comprehensive-plan requirements and "demonstrated consideration of" State development policies. Jurisdictions have 45 days to revise and resubmit a plan returned by the Governor. The State is not obligated to provide financial assistance or infrastructure support for land use actions substantially inconsistent with State development policies, including affordable housing policy.

7. Reporting

DSHA, coordinating with the Office of State Planning Coordination, will publish an annual public report on each jurisdiction's progress toward its affordable housing plan goals, beginning no later than May 15, 2028.

SB 23 — Key Implementation Deadlines

Date	Requirement	Impacted
On Enactment	By-Right Process Changes	Statewide, all communities
Ongoing	Jurisdictions get credit for affordable-housing actions taken on or after July 17, 2024.	Counties, Municipalities over 2,000
February 1, 2027	Cutoff for the limited exemption: jurisdictions adopting their next comprehensive plan before this date get until their following 5-year review to comply with § 9222 plan-content requirements.	Entities with a Comp Plan due on or before Feb 1, 2027

Date	Requirement	Impacted
Each Comp. Plan cycle	Affordable housing plan must be adopted/updated concurrently with each comprehensive plan (first adoption with the jurisdiction's next plan).	Entities with populations over 2,000
Within 12 months of Comp. Plan	Counties must rezone to conform to an adopted/revised comprehensive plan's future land use map, or the alternative approval pathway for consistent rezoning applications takes effect.	Counties
May 15, 2028	First annual DSHA/OSPC public compliance report is due, and each May 15 thereafter.	DSHA/OSPC

Implementation Guidance: State Agencies

The following is initial guidance for the state agencies with direct implementation responsibilities under HB 450 and SB 23. Each agency should confirm specifics with its Cabinet Secretary and the Office of the Governor as implementing regulations are developed.

Delaware Department of Transportation (DelDOT)

- Update engineering and permitting guidance to apply the 500 peak-hour trip threshold (excluding pass-by trips for non-residential) in place of daily-trip thresholds statewide.
- Design and publish the transportation impact fee methodology by county, including the growth-area/non-growth-area distinction, ahead of the January 1, 2027 deadline.
- Establish the Transportation Impact Fee Fund and disbursement process, including consultation procedures with counties and municipalities.
- Track county and municipal compliance with traffic-impact-study and density ordinance deadlines (June 1, 2027) to determine, county by county, whether fee revenue must be redirected under the Act's compliance condition.
- Stand up or expand automated monitoring, sensor, and analytics infrastructure, including continued operation of the Delaware Public Crash Database.
- Coordinate with counties on Complete Community Enterprise District designations and required agreements ahead of the June 30, 2027 deadline.
- Conduct fee reductions or removals based on DSHA approvals for DSHA-financed residential development under the transportation impact fee program.

Delaware State Housing Authority (DSHA)

- Publish statewide guidance on residential density thresholds (starting at 4 units/acre for single-family) for use by counties and municipalities, in consultation with DelDOT, the Office of State Planning Coordination, and the Delaware League of Local Governments.
- Stand up the collaborative process for local jurisdictions to develop affordable housing plans, including technical assistance on request.
- Develop a review/approval pathway (or approval criteria) for the 11th, locally proposed strategy option under § 9222(c)(11).

- Coordinate with OSPC to build the reporting infrastructure needed for the first annual public compliance report, due May 15, 2028.
- Continue administering fee waivers/reduction approvals for DSHA-financed residential development under the transportation impact fee program.

Office of State Planning Coordination (OSPC)

- Support the Governor's comprehensive plan certification process.
- Coordinate with DSHA on the annual public reporting requirement.
- Provide technical support to counties and municipalities integrating affordable housing plans into comprehensive plan updates.

Other agencies

- Office of Management and Budget / Controller General: administer quarterly distribution of the transportation impact fee surcharge across the five designated recipient programs.

Implementation Guidance: Counties and Municipalities

Counties and municipalities retain significant local flexibility under both laws — particularly in choosing which affordable-housing strategies to adopt under SB 23 — but each has binding deadlines and minimum standards to meet. Recommended near-term action items:

Immediate (before your next comprehensive plan action)

- Confirm with OSPC whether your jurisdiction's population exceeds 2,000, triggering SB 23's affordable housing plan requirement based on the most recent decennial Census.
- Review current traffic-impact-study thresholds and update ordinances/regulations to use the peak-hour standard (500 peak-hour trips) ahead of the June 1, 2027 deadline.
- Identify designated growth areas in levels 1 and 2 in your current comprehensive plan and assess how existing zoning compares to the required minimum residential densities.
- Begin coordination with DSHA early if a comprehensive plan update is upcoming — the affordable housing plan must be developed collaboratively and concurrently with the comprehensive plan process, not added afterward.

When updating your comprehensive plan

- Build the affordable housing plan into the same public process as the comprehensive plan update — SB 23 requires this to happen concurrently and through an open, inclusive process.
- Address all three mandatory elements (density increase, housing type mix, bulk standards review) and select at least 5 of the 11 optional strategies — take credit for qualifying actions already taken since July 17, 2024.
- Build in the by-right administrative review pathway for uses already permitted under your zoning ordinance; if you require commission/board review, confirm it is limited to objective standards.
- For counties: plan for the 12-month rezoning conformance deadline after plan adoption, including staffing for the 21-day completeness determination and 120-day final-action clock on applications filed under the automatic-approval pathway.

- Work with DSHA and other relevant agencies in relevant components and OSPC to submit your plan for review through comprehensive plan review and certification process. Be sure to build in time for the possibility of a 45-day revision period pending the Governor's action.

Ongoing compliance

- Track and report information requested by DSHA/OSPC for the annual public compliance report (first due May 15, 2028).
- Coordinate with DelDOT on transportation impact fee revenue expenditures within your jurisdiction, and be aware that non-adoption of conforming traffic-study and density ordinances by June 1, 2027 may result in DelDOT redirecting locally generated fee revenue without consultation.
- Monitor DSHA guidance for updates to statewide density thresholds and approved local strategy options.

Questions and Resources

This guidance will be updated as implementing regulations, DSHA density guidance, and DelDOT fee schedules are published. Local officials and members of the public with questions about specific provisions should contact:

- Delaware Department of Transportation — traffic impact study standards and transportation impact fees.
- Delaware State Housing Authority — affordable housing plans, density guidance, and technical assistance.
- Office of State Planning Coordination — comprehensive plan certification and reporting.