

1 **AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 62,**  
2 **ARTICLE III, § 62-7, ENTITLED, “FEES FOR PERMITS AND APPLICATIONS,” TO**  
3 **ADD A NEW § 62-7J., WHICH SHALL ESTABLISH A SCHOOL SURCHARGE ON**  
4 **BUILDING PERMIT APPLICATIONS TO GENERATE REVENUE FOR CAPITAL**  
5 **IMPROVEMENTS FOR LOCAL SCHOOL DISTRICTS AND SUSSEX TECHNICAL**  
6 **HIGH SCHOOL.**

7  
8 WHEREAS, Sussex County Code, Chapter 62, Article III, § 62-7 establishes the fees to  
9 be charged for permits and applications; and

10  
11 WHEREAS, Sussex County desires to amend Sussex County Code, Chapter 62, Article  
12 III, by adding a new § 62-7J., which shall establish a school surcharge on all building permit  
13 applications, except as specifically exempted therein; and

14  
15 WHEREAS, the school surcharge shall generate revenue for the construction of capital  
16 improvements needed to address student capacity issues in Sussex County for both the local  
17 school districts and Sussex Technical High School; and

18  
19 WHEREAS, the school surcharge shall be determined during the budget process, and  
20 shall be collected and held in an account for each local school district and Sussex Technical High  
21 School; and

22  
23 WHEREAS, the school surcharge funds collected for the preceding fiscal year shall be  
24 distributed to each local school district and Sussex Technical High School during the budget  
25 process upon proper application.

26  
27 NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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29 Section 1. Sussex County Code, Chapter 62, Article III, Chapter 62, “Fees for permits  
30 and applications”, is hereby amended by adding a new § 62-7J. by inserting the underlined  
31 language as follows:

32  
33 J. School surcharge.

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35 (1) All applications for building permits shall be subject to a surcharge of the proposed  
36 construction valuation for the local school district and a separate surcharge of the proposed  
37 construction valuation for Sussex Technical High School. Both surcharges will be  
38 established annually during the budget process. The purpose of the surcharge is to establish  
39 financial assistance to individual school districts, distributions limited to student capacity  
40 -related capital improvements eligible for state matching funds pursuant to an approved  
41 certificate of necessity issued by the State Department of Education.

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43 (2) The surcharge on the building permits for construction of buildings not involving  
44 residential use and occupancy shall be limited to the first \$1,000,000 of construction value.

45  
46 (3) The surcharge on building permits for construction of buildings for residential use shall not  
47 be limited. Notwithstanding the above, applications for building permits where the  
48 proposed construction value as determined by the Planning & Zoning Department is less

49 than \$150,000 and such application is submitted following the issuance of the original  
50 certificate of occupancy shall be exempted from this article.

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52 (4) Exemptions. The following shall be exempt from the building permit surcharge:

- 53  
54 a. Building permits applied for by an organization exempt under 501c3 of the Federal  
55 Internal Revenue Code which provides owner-occupied housing to low-income  
56 households by rehabilitation of residential properties and reselling said properties  
57 without profit, nor to the Delaware State Housing Authority, nor to any applicant  
58 funded by the Delaware State Housing Authority;
- 59  
60 b. Building permits on an improvement approved through the Sussex County Rental  
61 Program;
- 62  
63 c. Building permits applied for by state or local government department or agency;
- 64  
65 d. Building permits applied for by any organization from tax under §501c3 of the  
66 Federal Internal Revenue Code regardless of the residential or nonresidential use  
67 of the proposed structure. Such organizations shall provide proof of tax-exempt  
68 status at the time of building permit application;
- 69  
70 e. Buildings and structures, other than residential structures, devoted primarily to  
71 active agricultural use as defined in 9 Del. C. § 8330 or public safety uses,  
72 including, but not limited to, fire and ambulance companies and state and local  
73 police organizations, which shall be considered public safety uses; and
- 74  
75 f. Existing structures destroyed or demolished will not be assessed a surcharge for the  
76 reconstruction, provided that the replacement structure has the same or less square  
77 footage and occurs within 24 months of the demolition. If the square footage is  
78 greater than the original structure, the surcharge shall be assessed based upon the  
79 value of the additional square footage. As part of the building permit application  
80 for the replacement structure, applicant shall provide competent evidence that the  
81 replacement structure is on the same footprint as the existing structure destroyed or  
82 demolished.

83  
84 (5) The funds collected will be held in an account with a designation to each of the following  
85 school districts: Cape, Delmar, Indian River, Laurel, Milford, Seaford, Woodbridge, and  
86 Sussex Tech. Funds collected for building permits in each school district shall be accounted  
87 for by the school district.

88  
89 (6) Sussex County shall, as part of the budget process, distribute to each school district the  
90 funds collected during the preceding fiscal year, provided that:

- 91  
92 a. The school district has student capacity-related capital improvements for the  
93 ensuing fiscal year that are eligible for state matching funds pursuant to a certificate  
94 of necessity issued by the State Department of Education (DOE) for such capital  
95 improvements.

97 b. The proceeds have been qualified as the school district's matching local share  
98 towards capital improvements for purposes of the certificate of necessity in  
99 Subsection (6)a. above.

100  
101 (7) Funds not expended in the manner set forth above shall continue to be held by Sussex  
102 County for the school district from year to year until such time as they are expended. Sussex  
103 County may retain interest, if any, accruing on such accounts, as an administration fee;  
104 provided, however, said administration fee shall not exceed \$100,000 per year. School  
105 districts seeking disbursements of the funds shall file an application with the County 's  
106 Finance Department identifying the qualifying capital improvement project and  
107 committing the school district to expend the funds in accordance with the application.

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109 Section 2. Effective Date. This Ordinance shall become effective on July 1, 2026.

110  
111 Synopsis

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113 This Ordinance amends Sussex County Code, Chapter 62, Article III “Building Fees”, §  
114 62-7, entitled, “Fees for permits and applications,” by adding a new § 62-7J., which establishes  
115 a school surcharge on all building permit applications, except as specifically exempted therein.  
116 The school surcharge is being imposed to generate revenue to fund student capacity-related  
117 capital improvements for local school districts and Sussex Technical High School. The amount  
118 of the school surcharge shall be established annually through the County’s budget process. All  
119 revenues derived from such surcharge shall be held in an account that is allocated for the benefit  
120 of each local school district and Sussex Technical High School. Funds collected during the  
121 preceding fiscal year shall be distributed to the respective local school districts and Sussex  
122 Technical High School during the County’s budget process, subject to proper application and in  
123 accordance with such procedures as may be prescribed by the County.

124  
125 No text has been deleted. Additional text is underlined.