

ORDINANCE NO. 2868

AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE III, §§ 62-7 AND 62-8B. AND CHAPTER 99, §§ 99-14 AND 99-39 OF THE CODE OF SUSSEX COUNTY RELATING TO THE ESTABLISHMENT OF FEES IN THE ANNUAL BUDGET.

WHEREAS, Sussex County Code, Chapter 62, Article III., “Building Fees”, § 62-7 establishes a schedule of fees to be charged for various permits, and applications for buildings and the like; and

WHEREAS, Sussex County Code, Chapter 62, Article III., “Building Fees”, § 62-8 establishes inspection fees to be charged for manufactured homes; and

WHEREAS, Sussex County Code, Chapter 99, Article II., “Plan Submission Procedure”, § 99-14 establishes fees to be charged as part of the process; and

WHEREAS, Sussex County Code, Chapter 99, Article VIII., “Enforcement Amendments; Appeals”, § 99-39F. establishes fees to be charged for filing an appeal; and

WHEREAS, Sussex County desires to amend Sussex County Code, Chapter 62, Article III., §§ 62-7 and 62-8, and Chapter 99, Article II, § 99-14 and Article VIII, § 99-39F., by providing that all fees referenced therein shall be set forth in a Schedule of Fees that shall be adopted the Sussex County Council as part of the Annual Budget for each fiscal year commencing with FY2023.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Sussex County Code, Chapter 62, Article III, § 62-7, entitled, “Fees for permits and applications”, is hereby amended by adding the underlined and italicized language and deleting the bracketed language as follows:

§ 62-7 Fees for permits and applications.

The schedule of fees for permits and applications for buildings and the like shall be as hereinafter indicated:

A. Building and zoning permits.

- (1) The fee charged for permits shall be based upon standard construction values for the type of construction as provided by Marshall & Swift, or modified by the Building Official, as defined in Chapter 52 of the Sussex County Code, for particular applicability to Sussex County. Standard construction values shall be revised in January of each year to reflect changes in construction prices indices. The Building Official shall acquire input and shall consult with local building industry representatives prior to the termination of the standard construction values.
- (2) [Seven dollars and fifty cents for the first thousand; \$3 for each thousand thereafter]The fee for properties not within incorporated municipalities that have their own Zoning Code shall be included in the schedule of fees adopted as part of the annual Sussex County budget.
- (3) [Five dollars for the first thousand; \$2 for each thousand thereafter]The fee for properties within incorporated municipalities that have their own Zoning Code shall be included in the schedule of fees adopted as part of the annual Sussex County budget.

B. Manufactured home placement permits.

- (1) [Seven dollars and fifty cents for the first thousand; \$3 for each thousand thereafter]The fee for properties not within incorporated municipalities that have their own Zoning Code shall be included in the schedule of fees adopted as part of the annual Sussex County budget.
- (2) [Five dollars for the first thousand; \$2 for each thousand thereafter]The fee for properties within incorporated municipalities that have their own Zoning Code shall be included in the schedule of fees adopted as part of the annual Sussex County budget.

C. Sign permits:

- (1) A construction permit fee is required[shall be charged at a rate of \$0.50 per square foot, with a minimum charge of \$25 per sign for signs larger than 32 square feet.] and shall be included in the schedule of fees adopted as part of the annual Sussex County budget.
- (2) Annual or one-time fees are required[shall be charged at a rate of \$0.25 per square foot, with a minimum charge of \$25 per sign for signs larger than 32 square feet. A one-time fee of \$7.50 will be charged for signs 32 square feet or smaller]. These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.

D. Board of Adjustment.

- (1) Special use exception for manufactured homes: [~~\$400~~]This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.

- (2) Other special use exceptions: [\$400]*These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

- (3) Variances: [\$400]*These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

- E. Change of zone: [\$500]*These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

- F. Conditional use: [\$500]*These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

- G. Demolition fee: [no charge]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

- H. Site plan review fee.
 - (1) Multifamily residential: [\$50 minimum, plus \$2 per dwelling unit in excess of 10 dwelling units]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

 - (2) Commercial: [\$50 minimum, plus \$2 per 1,000 square feet in excess of 4,000 square feet of gross floor area, including outside sales display and storage area]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

 - (3) Industrial and private institutional: [\$50 minimum, plus \$2 per 1,000 square feet in excess of 4,000 square feet of gross floor area, including outside sales display and storage area]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

- (4) Manufactured home parks and parks or campgrounds for mobile campers and tent camping: [\$50 minimum; plus \$2 per site in excess of 10 manufactured home or camp sites]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

- I. Cluster fee [as required by § 115-25B(3) and F(3)].*¹ The Council will review the fees for a density bonus under the terms of this act on an annual basis and revise such fees as it deems necessary. *This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*
 - (1) For the town centers and developing areas around Greenwood, Bridgeville, Seaford, Blades, Laurel, and Delmar, [\$15,000 per unit in excess of two dwelling units per acre]*this fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

 - (2) For the town centers and developing areas around Milford, Milton, Ellendale, Georgetown, Millsboro, Dagsboro, Frankford and Selbyville,[\$15,000 per unit in excess of two dwelling units per acre] *this fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

 - (3) For the Coastal Area, [\$20,000 per unit in excess of two dwelling units per acre]*this fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

Section 2. Sussex County Code, Chapter 62, Article III, § 62-8B., entitled, “Filing of application; inspection fee”, is hereby amended by adding the

¹ The brackets contained in Line 143 do not indicate removal of language. The bracketed language is set forth as such in the current Sussex County Code.

underlined and italicized language and deleting the bracketed language as follows:

A. No person shall construct or commence construction of a building or place a manufactured home, either in whole or in part, without first filing with the Sussex County Assessment Division an application, in writing, for such construction or placement and obtaining a permit therefor. Such application shall be made on forms prescribed by the Assessment Division and shall contain such information as the Assessment Division shall require. The application for permit shall also contain a site plan or sketch showing the location on the lot and a general description of the type of structure. Responsibility for a violation of this section shall rest upon the record title owner of the property at the time the construction was commenced or a manufactured home placed.

B. Inspection fee.

(1) In addition to the fees currently charged for the placement and installation of a manufactured home, the Assessment Division shall also charge a fee for the inspection of foundation footers and tie downs to be paid at the time a placement permit is issued for a manufactured home as follows:

(a) [The sum of \$120, which] *An initial inspection fee* shall entitle the owner to up to three inspections. The first inspection shall be of the footers, which must be passed before the foundation can be installed. The second inspection shall be of the tie downs, which must be passed before a certificate of occupancy is issued by the County. In the event the County does not approve the footers and/or tie downs on their first inspection, the Assessment Division shall conduct a third inspection without the payment of an additional fee. However, if the required inspections have not resulted in the approval of the footers and tie downs after three inspections, an additional fee [of \$40] shall be charged for each

additional inspection prior to the issuance of a certificate of occupancy and any such additional inspection beyond the first three shall be paid for prior to the issuance of the certificate of occupancy. All inspection fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.

- (2) Effective date. The obligation of the County to perform the footer and tie down inspections and the obligation of the property owner to pay the inspection fee shall become effective on January 1, 2007.

Section 3. Sussex County Code, Chapter 99, Article II, § 99-14, entitled, “Fees”, is hereby amended by adding the underlined and italicized language and deleting the bracketed language as follows:

§ 99-14 Fees.

Fees to partially cover the cost of considering, examining and checking the plats required herein and for recording the final plat shall be collected at the time of filing the plans in accordance with the following schedule of charges:

- A. A fee [of \$500]shall accompany an application under this chapter, and the subdivider shall also reimburse the County prior to any public hearing for the cost of preparing and giving of notice. These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.
- B. Final plat.
 - (1) [Ten dollars per lot.]These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.

- (2) For each individual copy (one sheet) of the final plat to be recorded:
The Sussex County Recorder of Deeds fee shall be paid by the subdivider.

Section 4. Sussex County Code, Chapter 99, Article VIII, § 99-39F., entitled, “Enforcement Amendments; Appeals”, is hereby amended by adding the underlined and italicized language and deleting the bracketed language as follows:

§ 99-39 Appeals.

- A. No preliminary plat shall be acted upon by the Commission without affording a hearing thereon as outlined in 9 Del. C. § 6812 and after notice of the time and place of the hearing shall be sent by registered mail to the applicant not less than five days before the date fixed for the hearing. Following said hearing any approval or disapproval of the preliminary plat by the Commission may be appealed to the County Council within 30 days of the official action of the Commission approving or disapproving the preliminary plat. As provided in 9 Del. C. § 6811, an appeal may be filed by a party aggrieved by either the approval or the disapproval of a preliminary plat.
- B. If the appellant is aggrieved by the decision of the Commission, he may appeal that decision to the County Council within 30 days of the official action of the Commission. In such event, the appeal shall be an appeal on the record of the hearing before the Commission and the notice of appeal shall be on a form provided by the Office of Planning and Zoning and shall specify the grounds therefor and the appellant shall pay the appeal fee hereafter provided. In respect to an appeal to the Council from a decision of the Commission, the following procedures shall apply:
 - (1) Within 30 days following the filing of the appeal to the Council, it shall be the responsibility of the appellant to pay the costs to have a certified court reporter prepare a verbatim transcript of the hearing record

before the Commission at the appellant's expense and to file said transcript with the Clerk of County Council. If the transcript is not filed within said thirty-day period, the appeal shall be dismissed and the appellant shall be notified of the dismissal by letter from the Clerk.

- (2) The Council shall review the record of the hearing before the Commission and shall make a determination as to whether the Commission's decision was the result of an orderly and logical review of the evidence and involved the proper interpretation and application of the chapter. If the Council finds that the Commission misapplied or misinterpreted the applicable sections of this chapter or that its findings were not the result of an orderly and logical review of the evidence and the applicable provisions of this chapter:
 - (a) The Council may send the matter back to the Commission for further review and consideration and, if the Council considers it necessary, it may direct that the Commission hold a new hearing, specify the time period within such hearing shall be held and direct the Commission to issue a written decision containing findings and conclusions following the rehearing.
 - (b) The Council may reverse a decision only upon a finding that the Commission made an error in its interpretation of the applicable sections of this Chapter; or the Commission's findings and conclusions were not the result of an orderly and logical review of the evidence and the applicable provisions of this chapter.
 - (c) Within 60 days from the receipt of the transcript, the Council shall act on the record of the hearing before the Commission and the Council shall not hold an additional public hearing.

- C. Any party aggrieved by the decision of the Council may appeal to the appropriate court, but only after all remedies made available under this chapter have been exhausted. Such appeals shall be to the Superior Court in the same manner as appeals from decisions of the Board of Adjustment as specified in 9 Del. C. § 6918.
- D. The standard of review to be applied by the Council is that a decision approving or disapproving a plat shall be upheld unless the appellant can demonstrate that the Commission made an error in its interpretation of the applicable sections of the Subdivision Ordinance and/or that the Commission's findings and conclusions were not the result of an orderly and logical review of the evidence and the applicable provisions of the Subdivision Ordinance.
- E. Appeals to the Council shall not be based on new or revised subdivision plans that were not presented to the Commission prior to the plat being approved or denied or to appeal a condition imposed by the Commission.
- F. The fee for filing an appeal to Council shall be *included in the schedule of fees adopted as part of the annual Sussex County budget*[\$500] and shall be payable to the Clerk of Council on the date of filing the notice of appeal.
- G. This amended appeal procedure shall apply to any preliminary plat applied for after the date of adoption of this amendment.
- H. An applicant may request in writing that the Commission reconsider a condition imposed by the Commission but there shall be no appeal from the decision of the Commission on such request.

Section 5. Effective Date. This Ordinance shall become effective upon its adoption.

Synopsis

This Ordinance amends Chapter 62, Article III. § 62-7 and § 62-8, and Chapter 99, Article II, § 99-14 and Article VIII, § 99-39F., by providing that all fees referenced therein shall be set forth in a Schedule of Fees that shall be adopted by the Sussex County Council as part of the Annual Budget for each fiscal year commencing with FY2023.

Deleted text is in brackets, with the exception of the bracketed language on page 6, line 143 which is set forth as such in the current Sussex County Code and is not being deleted. Additional text is italicized and underlined.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2868 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 21ST DAY OF JUNE 2022.

**TRACY N. TORBERT
CLERK OF THE COUNCIL**