

ORDINANCE NO. 4065

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

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

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

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

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

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

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

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

**J. School surcharge.**

- (1) All applications for building permits shall be subject to a surcharge of the proposed construction valuation for the local school district and a separate surcharge of the proposed construction valuation for Sussex Technical High School. Both surcharges will be established annually during the budget process. The purpose of the surcharge is to establish financial assistance to individual school districts, distributions limited to student capacity -related capital improvements eligible for state matching funds pursuant to an approved certificate of necessity issued by the State Department of Education.**
- (2) The surcharge on the building permits for construction of buildings not involving residential use and occupancy shall be limited to the first \$1,000,000 of construction value.**

(3) The surcharge on building permits for construction of buildings for residential use shall not be limited. Notwithstanding the above, applications for building permits where the proposed construction value as determined by the Planning & Zoning Department is less than \$150,000 and such application is submitted following the issuance of the original certificate of occupancy shall be exempted from this article.

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

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

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

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

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

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

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


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

#### Synopsis

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

No text has been deleted. Additional text is underlined.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 4065 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 16<sup>TH</sup> DAY OF JUNE 2026.

  
Tracy N. Torbert  
Clerk of the Council