

INTRODUCED BY: Eric L. Buckson
DATE INTRODUCED: August 25, 2009
PUBLIC HEARING DATE: September 8, 2009
PUBLIC HEARING TIME: 7:15 p.m.
ADOPTION DATE: September 8, 2009
EFFECTIVE DATE: Upon Adoption

Ordinance 09-21
Building Permit Fee Surcharge Exemptions

An Ordinance to amend Kent County Code, Vol. I, Chapter 105 Subdivision Building construction, as amended, Article III Building Permit Fee Surcharge, § 105-6. Surcharge established; applicability to reformat the section and eliminate the school surcharge for building permits applied for by any organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code and any state or local government department of agency.

NOW, THEREFORE, THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1: That the Kent County Code, Vol. I, Chapter 105 Subdivision Building construction, as amended, Article III Building Permit Fee Surcharge, § 105-6. Surcharge established; applicability is hereby amended by reorganizing the section, deleting the following bracketed language shown with strike-through marks, and adding the following underlined language:

Chapter 105, Building Construction, Article III, Building Permit Fee Surcharge

§ 105-6. Surcharge established; applicability.

- A. All application for building permits, ~~[except for those building permits for buildings and structures devoted primarily to agricultural uses]~~ shall be subject to a surcharge of 1.250% of the proposed construction valuation as determined by the Department of Planning Services for the purpose of establishing financial assistance to individual school districts, disbursements limited to capital improvements.
- B. The surcharge on building permits for construction of buildings not involving residential use and occupancy shall be limited to the first \$1,000,000 of construction value.
- C. The surcharge on building permits for construction of buildings for residential use and occupancy shall not be limited. Notwithstanding the above, applications for building permits where the proposed construction value as determined by the Department of Planning Services is less than \$60,000 and such application is submitted following the issuance of the original certificate of occupancy shall be exempted from this article.

D. Exemptions. The following shall be exempt from the building permit surcharge:

- (1) Additionally, the surcharge provided for herein shall not be added to B[b]uilding permits applied for by an organization exempt from tax under §501(c)(3) 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.
- (2) Building permits applied for by any state or local government department or agency.
- (3) Building permits applied for by any organization exempt from tax under §501(c)(3) 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; and
- (4) Buildings and structures, other than residential structures, devoted primarily to agricultural or public safety uses, including, but not limited to, fire and ambulance companies and state and local police organizations, shall be considered public safety uses.

E. The fund shall be known as the "School District Capital Improvement Fund" (SDCIF) and shall be held by the County in the name of each of the following individual school districts: Capital, Caesar Rodney, Lake Forest, Milford, Smyrna, Woodbridge, and POLYTECH. As a County-wide school district, POLYTECH School District will receive 7.2% of the total School District Capital Improvement Funds.

Section 2. Any organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code or state or local government agency that has obtained a building permit for the construction of a building or structure on or after the date of introduction of this ordinance and that paid a surcharge on such building permit pursuant to the provisions of County Code, Vol. 1, Chapter 105, Article III, 105-6 (Surcharge established; applicability) shall be entitled to a refund of said surcharge if a written request for refund is submitted to the Department of Planning Services within 180 days of the effective date of this Ordinance.

Section 3. Severability.

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Section 4. Effective Date.

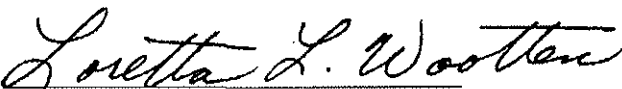
This ordinance shall become effective upon the date of adoption.

ADOPTED BY THE LEVY COURT OF KENT
COUNTY, DELAWARE



President, Kent County Levy Court

This 8th day of September, 2009

ATTEST: 

Clerk of the Peace

Synopsis: This ordinance revises the building permit fee surcharge for education to reorganize the section and exempt permits applied for by any organization exempt from tax under § 501(c)(3) of the federal Internal Revenue Code and by any state or local government department or agency.