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ORDINANCE #2024-16

Introduction: July 22, 2024

Adoption:

AN ORDINANCE OF SOUTH ORANGE VILLAGE AMENDING AND RESTATING SOUTH ORANGE VILLAGE CODE CHAPTER 9 – BOARDS, COMMITTEES AND COMMISSIONS, SECTIONS 9-17 THROUGH AND INCLUDING SECTION 9-29 IN THEIR ENTIRETY - ALL RELATING TO THE HISTORICAL PRESERVATION COMMISSION

WHEREAS, the Village Council of South Orange Village (the "Council"), by Ordinance #2012-09, established a Historic Preservation Commission (the "Commission") pursuant to N.J.S.A. 40:55D-107 et seq. and set forth certain procedures and requirements related to same; and

WHEREAS, the Council, by Ordinance #2012-16, amended the Code of South Orange Village (the "Code") to include a definition of "Local Landmark" and to establish the criteria and procedures for the designation of Local Landmarks; and

WHEREAS, the Council, by Ordinance #2016-09, further amended the Code to establish and/or modify the procedures and criteria by which the Commission shall carry out functions set forth in that Ordinance to protect historically significant structures and properties in South Orange Village; and

WHEREAS, the Council wish to adopt certain amendments to these procedures and requirements established under these Ordinances.

NOW THEREFORE BE IT ORDAINED, by the Village Council of South Orange Village, a municipal corporation of New Jersey located in Essex County thereof, as follows:

SECTION 1. Village Code Chapter 9 – Boards, Committees and Commission, Sections §9-17 through and including §9-29 (all concerning and regarding the Historical Preservation Commission) are hereby deleted in their entirety.

SECTION 2.

Village Code Chapter 9 – Boards, Committees and Commissions, commencing with §9-17 is amended and restated as follows:

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9-17 Creation

Pursuant to N.J.S.A. 40:55D-65(i) and 107 et seq. there is created an Historic Preservation Commission ("Commission") in South Orange Village (the "Village"), for the purposes set forth herein.

9-18 Definitions

"Administrative Officer" shall mean the Zoning Officer or Construction Official as appropriate in the exercise of their duties with respect to an application for development under the Municipal Land Use Law or an application for a demolition or construction permit under the Uniform Construction Code.

"Certificate of Appropriateness" shall mean an approval of an application for Major Work as defined herein or to demolish an historic structure and/or to subdivide a property located in a Designated Historic District or on which is located a Designated Local Landmark so designated under this Code.

"Contributing Properties" shall mean a property within a Designated Historic District and designated as Contributing Properties.

"Demolition" shall mean destruction of the front facade with a primary entrance or any facade facing a public street of a Designated Local Landmark including any key contributing structure or contributing structure in a Designated Historic District so designated under this Code or the destruction of more than one-half (50%) of the original structure of any such structure; or destruction of one or more of any such structure's architectural elements that define or are key to its historic significance or character.

"Demolition by Neglect" shall include any one or more of the following courses of action or inaction: Deterioration of the exterior of the building to the extent that it creates a hazardous or unsafe condition, and/or deterioration of the exterior walls or other vertical



supports, horizontal members, roofs, chimneys, exterior wall elements or siding including walls, brick, plaster or mortar to the extent it adversely affects the character of the historic district or could reasonably lead to irreversible damage to the structure.

"Designated Local Landmark(s)" shall mean any property or structure designated as a local landmark pursuant to §9-23, also referred to as "local landmarks" in this Code.

"Designated Historic District" shall mean any geographic area designated as a historic district pursuant to §9-23, also referred to as a "historic district" in this Code.

"Major Work" shall mean additions, alterations or replacements or any change to a publicly visible facade of any Designated Local Landmark or to any Contributing Property in a Designated Historic District, except for those eligible for a permit for Minor Work as defined herein;

"Minor Work" shall mean any of the following: 1) replacement of the existing roof using an appropriate material compatible with the architectural period or design of the subject structure; 2) replacement in kind of over twenty-five percent (25%) of existing shingles, clapboards or other siding, exterior decorative elements, columns, or porch posts, maintaining the architectural integrity of the structure; and 3) replacement of existing windows and doors; and 4) painting of previously unpainted exterior surfaces; e.g. brick and stone.

"Non-Contributing Properties" shall mean a property within a Designated Historic District but not determined to be contributing, as defined above.

"Relocation" shall mean the transport of a building to a new location, by means adequate to assure structural and architectural integrity, for continuation of the designed use of the building, or an adaptive reuse pursuant to the standards of the United States Department of the Interior.

9-19 Membership; Appointment

- A. The Commission shall consist of seven regular members and two alternate members. The Village President shall appoint all members of the Commission and shall designate at the time of appointment the regular members by class and the alternate members as "Alternate No. 1" and "Alternate No. 2." Any vacancy on the Commission (including a vacant alternate position) shall be filled by the Mayor within sixty days in accordance with the procedures established by N.J.S.A. 40:55D-107c for making such appointments, the newly appointed member to finish out the unexpired term of the previous member
- B. The regular members of the Commission shall include at least one person from Class A, described in subsection C below and at least one person from Class B, described in subsection C below; provided, however, that at least three of the regular members



of the Commission must be from the aforementioned Class A and Class B. The alternate members of the Commission shall meet at least the qualifications of Class C, described in subsection C below.

C. Class A and Class B members may reside outside of South Orange, and Class C members shall reside in South Orange and shall consist of the following types of persons:

1. Class A. Persons who are knowledgeable in building design and construction or architectural history.
2. Class B. Persons who are knowledgeable or have a demonstrated interest in South Orange history.
3. Class C. Those regular members who are not designated as Class A or Class B shall be designated as Class C. Class C members shall hold no other municipal office, position or employment except for membership on the Planning Board or the Zoning Board of Adjustment.

D. At the first regular meeting of each calendar year, the Commission members shall select a Chair and Vice-Chair from its members. The Chair will preside over Commission members and perform any other functions of that office identified in this Code. The Vice-Chair shall perform the duties in the Chair when the Chair is unable to do so. The members shall also select a secretary, who may or may not be a member of the Commission or a municipal employee.

E. The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the municipal attorney at the rate of compensation determined by the governing body, unless the governing body, by appropriation, provides for separate legal counsel for the Commission.

9-20 Terms

The terms of regular members shall be four years and the terms for alternate members shall be two years. Notwithstanding the foregoing, the terms of the initial members shall be determined to the greatest extent practicable so that the terms of the regular members expire evenly over the first four years and the terms of the alternate members expire evenly over the first two years. Notwithstanding any provision herein, to the contrary, the term of any member, who is also a member of the Planning Board or Zoning Board of Adjustment, shall be controlled by and be coterminous with that member's term on the Planning Board or Zoning Board of Adjustment.

9-21 Conflict of Interest



No member of the Commission shall be permitted to act on any matter in which he/she has, either directly or indirectly, any personal or financial interest.

9-22 Responsibilities

The Commission shall have the responsibility to:

- A. Prepare and maintain a survey of historic properties, structures, sites and districts of South Orange pursuant to criteria identified in the survey report. The survey shall include, but not be limited to, each property, structure, site, and district listed or eligible for listing in the historic preservation element of the Village Master Plan. The historic preservation element of the Village Master Plan shall include, but not be limited to, each property, structure, site, and district listed or eligible for listing in the State or National Registers of Historic Places. These and all other criteria for inclusion in the survey of historic properties, structures, sites and districts shall be identified in the survey report.
- B. Make recommendations to the Planning Board on the historic preservation plan element of the Village Master Plan including the inclusion of designated historic properties, structures, sites and districts and those eligible for designation and inclusion, and on the implications for preservation of historic sites of any other Master Plan elements.
- C. To propose to the Village Council those properties, structures, sites and districts located within the Village which it has found to be worthy of historic designation and hence should be subject to the provisions of this chapter.
- D. To review and approve or disapprove of applications for Certificates of Appropriateness pursuant to the provisions of this chapter as provided under sections 9-25 and 9-28 and to provide written reports to the Administrative Officer on same. Notwithstanding any other provision of this Code, a Certificate of Appropriateness is not required for the Commission's review of application for development pursuant to §9-27 of this Code.
- E. Advise the Planning Board and the Zoning Board of Adjustment on applications for development pursuant to §9-27 hereof.
- F. Provide written reports pursuant to N.J.S.A. 40:55D-111 on application of the zoning ordinance provisions concerning historic preservation; and
- G. Carry out such other advisory, educational and informational functions as will promote historic preservation in the municipality, including making recommendations to the governing body.

9-23 Designation of Local Landmarks and Historic Districts



- A. A local landmark, historic district, site, property, building, structure and/or object which meets the criteria set forth in subsection B below and;
1. has previously been included on the State or National Register of Historic Places or for which an opinion or certification of eligibility exists by the State Historic Preservation Officer pursuant to the Code of Federal Regulations, Title 36, Part 800, as amended in the Federal Register (69 FR 40553-40555.) on July 6, 2004, or N.J.A.C. 7:4-5.1-3, that such is eligible for inclusion on the Register(s), and is further designated a local landmark by the Village Council pursuant, to N.J.S.A. 40:55D-65.1, or
 2. is, by ordinance, designated as a local landmark by the Village Council, pursuant to N.J.S.A. 40:55D-65,1, or
 3. is recommended by the Historic Preservation Commission pursuant to N.J.S.A. 40:55D-109b and adopted by the Planning Board in the historic preservation element of the Master Plan as a local landmark and is further designated, by ordinance, a Local Landmark by the Village Council pursuant to N.J.S.A 40:55D-65.1.
- B. The criteria for designation as a local landmark shall be the same as the criteria for listing on the National or State Register of Historic Places, and are the same criteria established by the National Register Criteria for Evaluation in the Code of Federal Regulations (Title 36, Part 60), as same may from time to time be supplemented or amended. The criteria shall be applied and interpreted in the same manner by the Village Council and by the Historic Preservation Commission and Planning Board as applied and interpreted by the State Historic Preservation Officer.
- C. The criteria for designation as Contributing Property shall be based on professionally prepared analysis or survey, considering the criteria for listing on the National or State Register of Historic Places, and are the same criteria established by the National Register Criteria for Evaluation in the Code of Federal Regulations (Title 36, Part 60), as same may from time to time be supplemented or amended. In designating any site or district historic, the Commission may determine and so specifically designate certain buildings or structures on a site or certain properties within a historic district as contributing or noncontributing to the designation.
- D. Notice for Designation Hearing. The Commission, by certified mail, shall:
1. Notify by certified mail each owner no less than thirty (30) days prior to the scheduled hearing date that their property has been nominated to be designated a Local Landmark or within a new historic district.



2. Advise each owner of the significance and consequences of such nomination and advise them of their opportunities and rights to challenge or contest such designation to the Commission.
- E. Public Hearing on Designation Recommendations. A proposed list and map of proposed designated Local Landmarks, Contributing Properties, or districts shall be reviewed by the Commission at a public hearing. Interested persons shall be entitled to present their opinions, suggestions, and objections at this public hearing. A list and map showing proposed Local Landmarks and districts shall be published, together with a notice of the hearing on same, in the official newspaper of the Village not less than ten (10) days prior to such hearing.
 - F. Final Decision by Commission. After full consideration of the evidence brought forth at the hearing, the Commission shall make its final recommendations on the designations and shall issue its final report to the public stating reasons in support of its actions with respect to each historic designation.
 - G. Submission of Survey Reports and Recommended Designations to Village Clerk. Any historic survey report and recommended Local Landmark and Historic District recommendations by the Commission shall be submitted to the Village Clerk for distribution to the Village Council for consideration of commencement of legislative process to add specific properties to list of Designated Local Landmarks, Historic Districts, or Contributing Properties. Prior to adoption of an ordinance effectuating some or all of the Survey Report or Commission recommendations or in advance of final designation and approval of the proposed Designation of Local Landmark(s) or as a Designated Historic District, the Village Council shall refer same to the Planning Board pursuant to N.J.S.A. 40:55D-26 for Master Plan Consistency Review.
 - H. Distribution of Designation List and Zoning Map. A list of all Local Landmarks, Historic Districts, and Contributing Properties as adopted by ordinance, shall be made public and distributed to all municipal agencies reviewing development applications and all building and housing permits. A certificate of designation shall be served by certified mail upon the owner of each property designated as a Local Landmark or included in a Historic District within thirty (30) days after the adoption of the pertinent ordinance and at least once each year by regular mail thereafter.
 - I. Where an Historic District is designated, the Contributing Properties within the Historic District identified as such, including properties, buildings, sites, structures and objects, shall be subject to the provisions of this Code.
 - J. A listing of Local Landmarks, Historic Districts, and Contributing Properties established by the Village Council pursuant to this Code and N.J.S.A. 40:55D-65.1 shall be



maintained by the Village and shall be available on the Village website and in the office of the Village Clerk.

9-24 Exclusion from Requirement for Certificate of Appropriateness

The following work shall be exempt from the requirement to obtain a Certificate of Appropriateness:

- A. Emergency Repairs. Temporary emergency repairs performed in accordance with Village codes to preserve the continued habitability of a structure and/or the health and safety of the occupants or others; provided, however, that such repairs shall be only such as are necessary to maintain the habitability of the structure and shall be made only in those circumstances, which, in the opinion of the Administrative Officer, rise to the level of a bona fide emergency. No work in addition to such emergency repairs shall be performed until the appropriate approvals is obtained from the Commission pursuant to the procedures set forth herein.
- B. Any changes to the interior of structures that do not affect the exterior appearance.
- C. Changes or additions to landscape or hardscape.
- D. Exterior painting of existing painted surfaces
- E. Repairs to existing signs, shutters, fences, awnings, off-street driveways and sidewalks, in order to return the same to, as nearly as practicable, its condition prior to the occurrence of deterioration, wear or damage, with in-kind material and quality workmanship.
- F. Repairs and maintenance of less than 25% of existing shingles, clapboards or other siding materials, roofing materials, architectural trim and other building components, using the same style, materials and quality workmanship.
- G. Repair and maintenance of existing doors and windows with in-kind material and quality workmanship.
- H. Any work meeting the definition of "Minor Work" as defined in this chapter, which requires a minor work permit.
- I. Work on a property subject to Land Use Board review (the Land Use Board shall obtain non-binding advice from the Historic Preservation Commission).

9-25 Permit for Major Work, Demolition, or Relocation Requiring a Certificate of Appropriateness



A Certificate of Appropriateness shall be obtained for the Demolition of or Relocation of or Major Work on any contributing structure in a Designated Historic District or a Designated Local Landmark.

9-26 Permit for Minor Work

An application for a permit for Minor Work shall be reviewed by the subcommittee of the Commission (which subcommittee shall be composed of the Chair of the Commission and one other member). The subcommittee shall have the authority to approve or deny the application and shall render a decision and issue a report to the Administrative Officer within 15 days of receipt of a completed application. Failure of the subcommittee to act within the 15 day period shall be deemed to constitute approval of the permit. Any applicant whose application for Minor Work has been denied shall have the option to file an application with the full Commission for review de novo.

9-27 Non-Binding Advice on Development Applications

The Secretary of the Planning Board and Zoning Board of Adjustment shall refer to the Commission every application for development submitted to either board for development within a Designated Historic District or on property on which a Designated Local Landmark is located. This referral shall be made when the application for development is submitted to such board and before it is scheduled for a hearing. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Commission may provide its non-binding advice, which shall be conveyed by written report or resolution of the Commission and/or through the delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written advice or comments which may have been submitted to the Board.

9-28 Standards for Review of Applications

- A. Application for Major Work requiring Certificate of Appropriateness or for Minor Work Permit. In reviewing any Major Work requiring Certificate of Appropriateness application or application for Minor Work approval, the Historic Preservation Commission shall consider the following matters:
1. the property's, structure's, site's or district's historic, architectural, cultural and aesthetic significance;
 2. the setting, design, arrangement, texture, details, scale, shape, materials, finish, color, streetscape, and related out buildings and the relationship of those characteristics to the historic, architectural, cultural and aesthetic significance of the historic property, structure, site or district;
 3. the impact of the proposed change on the historic and architectural significance of the historic site or district;



4. the extent to which the proposed action would adversely affect the public's view of a historic property, structure, site or district from a public street or other public property;
5. any evidence of potential archaeological significance of the site;
6. the property's, structure's, site's or district's current and potential use for those purposes currently permitted by the zoning ordinance and Master Plan or for the use proposed;
7. the importance of the property, structure, site, or district to the Village, and the extent to which its removal would adversely affect its historical or architectural value, the integrity of the historic property or district, or the public interest;
8. the extent to which the property, structure, site or district is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be readily reproduced or could be reproduced only with great difficulty;
9. the extent to which the property's, structure's, site's or district's retention would encourage study and interest in American history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the Village a more attractive and desirable place in which to live;
10. the probable impact of the property's, structure's, site's or district's removal upon the ambiance and context of any adjacent or included historic district or designated historic property, structure or site;
11. the structural soundness and historic integrity of the building, structure, site or district and the economic feasibility of restoring or rehabilitating the structure so as to comply with the requirements of the applicable building codes;
12. as to relocations only, the compelling reasons for not retaining the structure or improvement at its present site, the proximity of the proposed new location to its original location, its accessibility to residents of the Village, and the probability of significant damage to the structure or improvement during its relocation;
13. as to relocations only, the compatibility, nature and character of the current and the proposed surrounding areas as they relate to the intent and purposes of this Chapter.



- B. In reviewing an application for a permit for Minor Work, the Commission Chair shall consider the criteria set forth in subsection A while recognizing the minor nature of the work to be performed and the expedited review required.
- G. In interpreting and applying the standards and criteria set forth herein, the Commission shall be guided by the Secretary of the Interior Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (hereinafter referred to as "the Standards"). The Standards are set forth in the Code of Federal Regulations, Title 36, Parks, Forests, and Public Property, Chapter I, ("National Park Service, Department of the Interior"), Parts 1 to 99, with Guidelines maintained by the National Park Service, as may be revised and amended.
- D. Supplemental Standards for Demolition Applications
1. Opportunity to Salvage or Recycle Part of Structure Prior to Demolition. With respect to demolitions only, in the event the owner or applicant does not intend to recycle or salvage parts of the structure, the owner shall for thirty days afford interested parties and groups the opportunity to remove parts or architectural features from said structure prior to its demolition, subject to requirements for insurance, indemnification and other reasonable requests, in the discretion of the owner. The Commission shall maintain a list of interested parties and groups and the owner shall provide notice by certified mail to such groups advising of said opportunity to salvage.
 2. Notice of Demolition or Relocation Posted and Published by Owner. Applicants or owners in receipt of a Certificate of Appropriateness shall, prior to demolition or relocation, post a Notice of Demolition, or a Notice of Relocation, on the subject property for a period of at least 30 days in such a manner as to be clearly readable from the nearest street, and shall publish said notice in the Legal Notices of the Village's official newspaper at least once a week for a minimum of four (4) consecutive weeks, which notice advertised in the Legal Notices may be conducted concurrently with the 30 days' Notice on the subject property.
- E. Approval after change of circumstances. If a significant change in circumstance occurs, resulting in a structurally unsound and unsafe historic property, structure, site or district, or which poses an imminent hazard, the Commission may grant a Certificate of Appropriateness to demolish, remove or relocate in an emergency meeting called by the Construction Official, who shall, after the recommendation to approve of the Certificate, have 20 days in which to issue a Certificate of Appropriateness and permit for demolition, removal or relocation of all or part of the



property, structure, site or district. The emergency meeting shall be noticed to the public according to law, and notice shall be given in writing to the property owner.

9-29 Demolition by Neglect

- A. No officially designated historic landmark or contributing structure within an historic district shall be allowed to deteriorate due to neglect or by the owner, which will result in a violation of this Code. "Demolition by Neglect" shall include any one or more of the following courses of action or inaction:
1. Deterioration of the exterior of the building to the extent that it creates a hazardous or unsafe condition.
 2. Deterioration of the exterior walls or other vertical supports, horizontal members, roofs, chimneys, exterior wall elements or siding including walls, brick, plaster or mortar to the extent it adversely affects the character of the historic district or could reasonably lead to irreversible damage to the structure.
- B. In addition to any other remedies at law available to the Village to address a building condition that qualifies as "demolition by neglect," the Commission may review the condition of Designated Local Landmarks or contributing structures in a Designated Historic District, to evaluate whether the conditions of that structure constitute demolition by neglect. The Commission may evaluate the condition of such a structure by initiating an investigation of its own or responding to a concern or complaint identified by a member of the public or a Village official. If the Commission, after due consideration, determines that a structure may qualify for a designation of demolition by neglect, the Commission shall notify the Village Construction Official or Administrative Officer of that condition and request an investigation and possible enforcement of the applicable building code requirements.
- C. Within sixty (60) days of receipt of a referral from the Commission, the Construction Official or Administrative Officer may prepare a written report on its investigation of the condition and the results of any such investigation, including any enforcement action initiated and the results thereof.

9-30 Procedures In Event of Disapproval of Certificate of Appropriateness

- A. The disapproval of a Certificate of Appropriateness shall not impair the applicant's property rights under the United States Constitution or the Constitution of the State of New Jersey, or general law.
- B. Appeals. The disapproval of a Certificate of Appropriateness or any conditions of an approval of a Certificate of Appropriateness may be appealed by the applicant within 45 days to the Zoning Board of Adjustment as provided under N.J.S.A. 40:55D-



70(a). Further appeals may be taken as provided by law. The Zoning Board of Adjustment's review may be based on the record created before the Commission, without further testimony or evidence. The Commission's decision will be upheld unless the Zoning Board of Adjustment determines that the Commission acted without jurisdiction or otherwise acted in an ultra vires manner, or that its decision was arbitrary and capricious. The Zoning Board of Adjustment can request briefing from the counsel for the appellant, if applicable, and the Commission and the Zoning Board of Adjustment can entertain oral argument by counsel. Further appeals may be taken from the decision of the Zoning Board of Adjustment as provided by law.

- C. If the Commission disapproves an application to demolish or relocate a historic property, structure, site or district, an appraisal of the fair market value of the property, site, structure or district that is the subject of the application shall be made, at the Village's expense. The applicant or owner may obtain an appraisal of the fair market value of the subject property, site, structure or district, at its expense. If the applicant's or owner's appraisal is within ten percent of the Village's appraised fair market value, the fair market value shall be determined to be the average of the two appraisals. If the difference is more than ten percent, and both appraisals were performed within the same 12 month period, the appraisals shall be referred to a third, neutral appraiser to determine the fair market value, with the costs of the third appraisal split between the Village and the applicant or owner.
- D. Sale for Fair Market Value. If the applicant or owner intends to continue to pursue the demolition, removal or relocation application or any appeal thereof, regardless of any reservation by the Planning Board, it shall for a period of one year from the date of said reservation or disapproval make bona fide and diligent efforts to sell the structure to any person, firm, organization, governmental agency or political subdivision that provides reasonable written assurance that it is willing to preserve said property, structure, site or district. In order to maximize the opportunity for preservation, the applicant or owner shall provide notice of the proposed demolition or relocation in accordance with the provisions set forth above. For the purposes of satisfying the requirements of this subsection (d), the applicant or owner shall not be obligated to accept less than the property's, structure's, site's or district's fair market value.
- E. The applicant may reapply for a Certificate of Appropriateness after the passage of the one-year period set forth in subsection C and D of this Section if, during the period of reservation, if any, or during the period in which the property is offered for sale, bona fide and diligent efforts to sell or otherwise transfer the property for fair market value prove futile. Upon the Commission's satisfaction with applicant's demonstration of proof of bona fide and diligent efforts to sell or otherwise transfer the property for fair market value, a Certificate of Appropriateness shall be approved.



9-31 Process for Review of Certificate of Appropriateness and Non-Binding Review Applications

- A. Every application for development under the Municipal Land Use Law filed with the Village shall be reviewed by the Administrative Officer to determine if the application is subject to non-binding advisory review by the Commission pursuant to §9-27. If so, the Administrative Officer shall notify the applicant that it must submit an application for non-binding review to the Commission before its application to the Planning Board or Zoning Board of Adjustment, as applicable, is deemed complete. The Administrative Officer shall notify the Commission of the application, which shall be considered at a public meeting of the Commission. The application form and related materials shall be made available at the Building Department and the Engineering Department and on the Village website.
- B. Every application for a demolition or construction permit pursuant to the Uniform Construction Code shall be reviewed by the Administrative Officer to determine if the application is subject to Certificate of Appropriateness review by the Commission pursuant to sections 9-25 and 9-28. If so, the Administrative Officer shall notify the applicant that they must submit an application for a Certificate of Appropriateness to the Commission prior to obtaining a demolition or construction permit. The Application shall be submitted to the Historic Preservation Secretary. A public hearing shall be held by the Commission on an application for a Certificate of Appropriateness. The application form and related materials shall be made available at the Building Department and on the Village website.
- C. The Administrative Officer shall review an application under subsections A and B of this section for technical completeness, pursuant to a checklist available from the Commission secretary and as may be modified from time to time. The Administrative Officer shall review the application within 15 calendar days of receipt. If any application is found to be incomplete, the applicant will be advised of the deficiency(ies) and given thirty days to make revised or additional submissions to correct them. If the applicant does not make the necessary revised or additional submissions or they are deemed to be inadequate the application shall be administratively denied and the applicant will be required to file a new application if they wish to proceed. When the application is found to be technically complete it shall be referred to the Commission.
- D. The application will be reviewed by the Commission at a regularly scheduled meeting, provided that it has been received in a technically complete form at least 15 days prior to that date. The applicant and property owner shall be notified of the meeting date in writing. At the meeting, the Commission will review the application and all relevant supporting documentation according to the criteria set forth herein. The applicant and/or his/her designated representative shall be given an opportunity to present testimony, including expert testimony. A Certificate of



Appropriateness shall be approved by a majority of the full voting membership of the Commission present at the meeting. With respect to applications for non-binding advice, the Commission may provide its non-binding advice upon the approval of a majority of the full voting membership of the Commission present at the meeting. The advice shall be conveyed by written report or resolution and/or through the delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written advice or comments which may have been submitted to the Board.

- E. The Commission shall, no later than 45 days from the date that a technically complete application for a Certificate of Appropriateness is referred to the Commission, render a decision at a public meeting, and, at its next regular meeting, shall approve the issuance of a written resolution embodying that decision. Failure to act within the forty-five-day period shall be deemed to constitute a report in favor of the application, unless an extension is agreed upon by both the Commission and the applicant.
- F. The Commission's decision on a Certificate of Appropriateness or report on a non-binding review application may include recommendations as to the following factors in relation to its setting and context:
 - 1. Height;
 - 2. Massing;
 - 3. Density;
 - 4. Use, including where a use variance is proposed under N.J.S.A. 55D-70(d);
 - 5. Proportion of the width and height of the building's facades;
 - 6. Proportion of openings within the building;
 - 7. Rhythm of spacing of buildings on streets;
 - 8. Rhythm of solids to voids on facades fronting on public places;
 - 9. Relationship of color, materials and texture;
 - 10. Any applicable design guidelines adopted by the governing body.

9-32 Enforcement



- A. Any person who shall undertake an activity which requires approval from the Commission but fails to obtain that approval prior to conducting the activity, shall be deemed to be in violation of this Code. Upon learning of the violation, the enforcement officer shall serve the owner of the property whereon the violation is occurring a notice describing the violation and giving the owner ten days to abate the violation by restoring the property or structure to its condition prior to the occurrence of the violation. If the owner cannot be personally served within the Village with a notice, a copy shall be posted on the Village website and a copy sent to the owner at their last known address as it appears on the Village tax records.
- B. If a property subject to approval from the Commission is demolished without first obtaining such approval, no building permit shall be issued for a period of five years from the date of the demolition of the subject property (or any adjoining parcels of land under common ownership and/or control) unless the building permit is for the faithful restoration of the property demolished or as may otherwise be acceptable and expressly agreed to by the Village Administrator or her designee.
- C. In the event that a violation is not abated within ten days of service or posting on the website, whichever is earlier, the enforcement officer may cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this Code and specifying the wrongful conduct of the violator. Each separate day the violation exists shall be deemed to be a new and separate violation of this Code and the enforcement officer may cause cumulative summonses and complaints to issue for each separate day.
- D. The penalty for each violation shall be as follows:
 1. For each day up to ten days, not less than \$500.00 per day;
 2. For each day from eleven days to twenty-five days, not less than \$1,000.00 per day;
 3. For each day beyond twenty-five days, \$2,000.00 per day.
- E. In lieu of the assessment of penalties, the enforcement officer is authorized to seek injunctive relief ordering the owner of the property and/or its agents or others conducting the activity in violation, to halt that activity and restore the property to its condition prior to the activity in violation. Such action shall be filed in the Superior Court of New Jersey, Law Division. Such injunctive relief may be in addition to the penalties authorized under this section of the Act.

9-33 Application of Law



In all other respects the Commission shall be subject to the provisions of N.J.S.A. 40:55D-107 et seq.

SECTION 3.

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 4.

This ordinance shall take effect upon final passage and publication as required by law.

SECTION 5.

On passage this ordinance shall be codified.

Introduction – First Reading

Council Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown			X			
Greenberg			X			
Haskins			X			
Hartshorn Hilton		X	X			
Jones	X		X			
Lewis-Chang			X			

CERTIFICATION

I, Ojetti E. Davis, Village Clerk of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Village Council at their regular meeting held on July 22, 2024.


 Ojetti E. Davis
 Village Clerk

Adoption – Second Reading

Council Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown						
Greenberg						
Haskins						



Hartshorn Hilton						
Jones						
Lewis-Chang						

CERTIFICATION

I, Ojetti E. Davis, Village Clerk of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading by the Village Council at their meeting held on August 26, 2024.

Ojetti E. Davis
Village Clerk

Adopted:

Attest:

Sheena C. Collum
Village Mayor

Ojetti E. Davis
Village Clerk