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ORDINANCE #2024-20

Introduction: October 28, 2024

Adoption:

AN ORDINANCE OF SOUTH ORANGE VILLAGE AMENDING AND RESTATING VILLAGE CODE CHAPTER 334 – TREES AND SHRUBBERY IN ITS ENTIRETY AND AMENDING VILLAGE CODE CHAPTER 185 – LAND DEVELOPMENT, ARTICLE XVI – IMPROVEMENTS AND DESIGN STANDARDS, SECTION 185-100 – SHADE TREES, LANDSCAPING AND PLANTING STRIPS

WHEREAS, the 2021 Master Plan acknowledges the value of and provides goals and objectives for the preservation of the Village tree canopy; and

WHEREAS, objective 2.3 of the Master Plan Quality of Life Element recommends the Village "increase the Village's tree canopy coverage"; and

WHEREAS, indiscriminate, uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land within South Orange Village (the "Village") will cause increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, increased buildup of atmospheric carbon dioxide and decreased oxygen regeneration, the establishment of a heat island effect, and increased dust and pollution; and

WHEREAS, the singular or cumulative effect of any of the foregoing could adversely impact the character of the Village, decrease property values, render the land unfit and unsuitable for its most appropriate use, and negatively affect the health, safety and general welfare of the Village's residents; and

WHEREAS, the Village desires to regulate and control indiscriminate and excessive cutting of trees within the Village and to require appropriate tree replacement.

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 334 – Trees and Shrubbery is hereby deleted in its entirety.

SECTION 2.

Village Code Chapter 334 – Trees and Shrubbery is amended and restated as follows:

Chapter 334 Trees and Shrubbery

334-1 Intent and Purpose



- A. Indiscriminate, uncontrolled and excess destruction, removal and cutting of trees upon lots and tracts of land within South Orange Village will cause increased soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, increased buildup of atmospheric carbon dioxide and decreased oxygen regeneration, the establishment of a heat island effect, and increased dust and pollution. The singular or cumulative effect of any of the foregoing could adversely impact the character of South Orange Village, decrease property values, render the land unfit and unsuitable for its most appropriate use, and negatively affect the health, safety and general welfare of South Orange's residents. Thus, the Village governing body desires to regulate and control indiscriminate and excessive cutting of trees within the Village and to require appropriate tree replacement.
- B. It is recognized that there is a strong interrelationship between the integrity of the Village's water resources, development on steep slopes, tree removal, soil disturbance, stormwater management and the general use of the land resources. Fewer trees throughout the Village also correlates with increased air pollution. Therefore, the governing body finds that the appropriate management of these resources is an important health, safety and general welfare concern. Managing the Village's tree resources is consistent with the state-approved community forestry management plan, as in P.L. 1996, c. 135. The appropriate management guidelines for tree preservation to be utilized are:
1. The American National Standard, ANSI A300 (Part 5) — Management;
 2. Trees and Development: A Technical Guide to Preservation of Trees During Land Development, Nelda Matheny and James R. Clark; and
 3. Protection and Care of the Urban Forest, NJDEP Division of Parks and Forestry.
- C. Trees are declared to be an important cultural, ecological, scenic and economic resource. Proper management of this resource will ensure its maintenance and result in economic returns and a healthier biosphere for human habitation. A forestry management program is intended to meet the objectives of preserving, protecting, enhancing and maintaining trees and providing opportunities for the continued use of forest resources which are compatible with the maintenance of the environment. This will be accomplished by ensuring management of forest and trees through the application of sound management practices. To that end, it shall be unlawful to cut down, damage, poison or in any other manner destroy or cause to be destroyed any trees covered by this chapter, except in accordance with the provisions of this chapter.
- D. The enforcement of this chapter shall be the duty of the Village Code Enforcement, Village Engineer and their agents, through the regulation, planting, care and control



of shade, ornamental and evergreen trees and shrubs in the streets, highways, public places of the Village and tree removal on all lands within the Village.

334-2 Definitions

Without intending to limit the generality of the following; as used in this chapter, the following shall have the meanings indicated:

APPLICANT - means any "person," as defined below, who applies for approval to remove trees regulated under this ordinance.

CALIPER: ANSI Z60 FOR NURSERY STOCK - "Caliper" is a type of diameter measurement used in the nursery industry. The height measurement shall be taken from ground level for field-grown stock and from the soil line for container-grown stock, which should be at or near the top of the root flare. Caliper measurement of the trunk shall be taken six inches above the top of root flare up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at 12 inches above the top of root flare. Seldom are tree trunks perfectly round. The most accurate measurement will result from the use of a diameter tape. Caliper measurements taken with manual or electronic slot or pincer type caliper tools should be the average of the smallest and largest measurements.

COMMUNITY FORESTRY MANAGEMENT PLAN - A plan developed by the Village that outlines the goals and objectives for managing trees on municipal property with the intent of minimizing liability to the Village and maximizing the useful life of the tree resource. The plan is to be approved by the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forest Service. The community forestry management plan shall be overseen as may be provided therein.

CRITICAL ROOT RADIUS ("CRR") – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height of the tree by 1.5 feet. For example: a tree with a 6" diameter of breast height would have a CRR = 6"x1.5' = 9'.

DIAMETER BREAST HEIGHT ("DBH") - The diameter of a tree measured 4 1/2 feet above the uphill/highest side. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division

EROSION - The detachment and movement of soil or rock fragments by water, ice, wind and gravity.

EXEMPT AREA - The lot area as provided in this chapter for which tree replacement shall not be required.



FOREST MANAGEMENT PLAN - A plan for the management of timbered or forested lands approved by the New Jersey Department of Environmental Protection, New Jersey Forest Service, or similar state or federal agency.

HAZARD TREE - means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.

1. Has an infectious disease or insect infestation;
2. Is dead or dying;
3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Tree Specialist (as defined below).

HISTORIC TREE - A tree that has been found to be of notable historic interest to the Village because of its age, type, size or historic association and/or similarity in size and species to trees already listed by the New Jersey Forestry Service as an "NJDEP Big and Heritage Tree."

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use and enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open spaces, provided that such designation shall not conflict with or otherwise interfere with the authority of planning, zoning, or other body regulating "open space."

PERSON - means any individual, resident, corporation, utility, company, partnership, firm, or association.

RESIDENT - means an individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

SHADE TREE COMMITTEE - The Village Mayor individually and Village Council as a whole may establish an advisory committee as provided in Village Code Chapter 3, Section 8 as amended, to be known as the Shade Tree Committee which may, among other things, provide advice and guidance regarding the preservation of the Village's tree canopy.



SPECIMEN TREE - Any tree in fair or better condition, based on considerations of whether the tree is a rare species or specimen thereof; is abnormal in height, trunk diameter or dripline circumference for a tree of its species; has foliage of an unusual quality for a tree of its species; occupies a location which confers special shade tree, fragrance, erosion control, aesthetic, scenic enhancement, historic, preservation or cultural values to the community. For purposes of this definition, "in fair or better condition" shall mean that a tree has a relatively sound and solid trunk with no evidence of extensive decay or visual evidence of being hollow and with no major insect or pathological problem.

STREET TREE - means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to (or specified distance from) the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

TREE - Any deciduous or coniferous species which has a DBH of three inches or greater, with the exception of newly planted trees which have not yet reached three inches of DBH.

TREE ADMINISTRATIVE FUND - A fund established for administrative and labor costs associated with tree removal permits, inspections, and all work which would fall under the duties of the designated Tree Specialist and Village Engineer in the execution of the duties outlined in this Ordinance.

TREE BELT - means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

TREE PLANTING PROGRAM FUND - A fund established by the governing body solely for the purchase of trees, shrubbery resources, other sustainable landscaping and landscaping equipment on public lands which are consistent with the Community Stewardship Incentive Program as outlined within the New Jersey Shade Tree and Community Forestry Assistance Act, P.L. 1996, c. 135

TREE PLANTING PLAN - A specific plan developed by the Village for the location and placement of trees on public property.

TREE REMOVAL AND PROTECTION PLAN - As used in this Chapter shall refer to a "TREE SAVE PLAN" and shall be synonymous and in conformance with the Land Development Application Checklist - Administrative Checklist, as it concerns Item 31 - Existing Trees and shall be a specific plan that contains tree locations and other information in accordance with §334-5 herein or as may be required the Planning Board or Zoning Board of Adjustment (if applicable).

TREE REMOVAL - means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of



substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

TREE REMOVAL PERMIT - The permit issued by the Village Engineer or their designee to remove or destroy a tree or trees.

TREE REPLACEMENT PLAN - A specific plan for replacement of removed trees in accordance with the provision of this chapter.

TREE SPECIALIST - The Village Administrator may, in their sole discretion, name a Tree Specialist. This individual may be responsible for, among other things, the inspection of sites for which application(s) are filed under this chapter.

334-3 Applicability

The terms and provisions of this chapter shall apply as follows:

- A. Unless specifically excepted in Subsection C below, trees which have been designated as Specimen or Historic shall be maintained in a living condition and it shall be unlawful for any person to remove or cause to remove Specimen trees, Historic Trees and/or trees with a DBH of three inches or more without first having obtained a tree removal permit as provided herein.
- B. The condition of any trees proposed to be saved shall be evaluated by use of guides as follows:
 1. Evaluation of Hazard Trees in Urban Areas, ISA Books, Nelda Matheny and James R. Clark.
 2. Urban Tree Risk Management, USDA Forest Service, Northeastern Area.
- C. Exceptions. The provisions of this chapter shall not apply to the following:
 1. Any property upon which no trees are located, as confirmed by a statement of no tree verification.
 2. Any tree, other than a tree which has been designated as a Specimen or Historic Tree, of less than three inches DBH.
 3. Any tree or trees removed or cut in accordance with a forest management plan filed with the Village Clerk.



4. Any tree or trees removed or cut in accordance with an approved conservation plan prepared by the Soil Conservation District in its implementation of the New Jersey Soil Erosion and Sediment Control Act and filed with the Village Clerk
5. Any tree or trees planted and grown for commercial purposes on property used as a commercial nursery, tree farm, garden center, Christmas tree plantation or tree orchard.
6. Any tree removed or cut by a municipal, county, state or public utility growing in a utility right-of-way or fire trail.

334-4 Tree Removal Permits

- A. Any person wishing to obtain a tree removal permit shall make application to the Village Engineer and paying such fees as are set forth in §143-33. No permit shall be issued until a Tree Save Plan for the lot or parcel has been reviewed and approved as compliant with §334-5.
- B. Where an application, as required by this chapter, has been submitted, no permit shall be issued until a Tree Save Plan for the lot or parcel, if necessary, has been reviewed and approved as compliant with §334-5. Where an application is made in connection with the construction of a building or other improvement, a building permit should not be issued until the Tree Removal Permit has been issued.
- C. All required escrow and bond fees for any application, including required tree replacements or fees, shall be verified as paid prior to the issuance of the tree removal permit.
- D. Inspections. After the application is complete and reviewed, the Village shall cause an inspection of the trees and property which are the subject of the permit application within 10 business days of submission of the completed application.
- E. Permit approval or appeal of denial. The Village Engineer shall approve or deny the Tree Removal Permit within 10 business days after completion of the inspection and



shall issue or cause the issuance of a Tree Removal Permit if at least one of the criteria as follows has been satisfied:

1. The tree to be removed is consistent with and in accordance with the approval of Planning/Zoning Boards;
 2. The tree is dead, diseased, injured, in danger of falling, is too close to existing or proposed structures, interferes with existing utility service, creates unsafe vision or clearance or conflicts with other ordinances or regulations; or
 3. The tree is to be removed for harvesting as a commercial product or for the purpose of making land available for farming or other agricultural activity, or is to be removed in furtherance of a Forest Management Plan or soil conservation plan, or to serve some other purpose which is consistent with the purposes of this chapter.
- F. Appeal of Denial. The Village Engineer shall notify the applicant in writing of the factual basis and criteria for any denial. The final decision of the Village Engineer may be appealed to the Village Administrator by filing written notice within 10 business days of the Village Engineer's decision. A final decision of the Village Administrator may be appealed to the Village Council by filing written notice within 15 days of Village Administrator's final decision. The governing body shall hold a public hearing at a regularly scheduled meeting of the Village Council and render its decision within 30 days after notice of appeal is filed, unless the applicant requests and the governing body consents to an extension of time.

334-5 Tree Save Plan

A Tree Save Plan submitted under this Chapter or submitted in connection with a land use application shall be submitted to the Village Engineer for review, comment and recommendation and to the extent applicable (or as requested by the Village Engineer), the Tree Save Plan shall meet the criteria of this Chapter (and Chapter 185, Article XVIII - Design Criteria for all applications submitted in connection with a land use application). All Tree Removal and Protection Plans (Tree Save Plans) shall contain, at a minimum, the following:

- A. The name and address of the applicant.
- B. The name and address of the owner of the property (from which the trees are to be removed or protected).
- C. The lot and block of the property.
- D. The shape and dimensions of the lot or parcel, including the location of all existing and proposed easements. If a tree removal permit is for a single-family residence, the plan



shall consist of a tree location sketch containing the minimum amount of pertinent information to enable the determination of compliance with the regulations in this chapter, including the information set forth below in subsections D(1), (2), (6) and (8). The plan for any other property (any property which is not recognized as a 'single-family residence') shall include a survey prepared by a licensed land surveyor that contains tree locations. The survey shall contain, at a scale of no less than one inch equals 30 feet, the following information:

1. The existing and proposed tree preservation limits.
2. The proposed limit of any and all clearing(s) and all individual trees to be retained outside the tree clearing(s) identified by some approved method as determined by the Tree Specialist, such as flagging, prior to the field inspection. All trees on the property greater than 3" DBH shall be inventoried.
3. The installation and limits of a temporary existing tree protection fence along the limits of any proposed tree removal shall be in compliance with §334-10.
4. Locations of all forest types shall be identified by common and botanical names of dominant tree species.
5. All specimen and historic trees shall be indicated on the plan. All reasonable efforts shall be made to preserve such trees, including, but not limited to, if feasible, relocation of infrastructure, roadways and buildings. For the avoidance of any confusion, no specimen or historic tree shall be removed without issuance of a Tree Removal Permit as provided within this Chapter.
6. A proposed tree replacement plan compliant with §334-9.
7. A North arrow.
8. The location of existing and proposed structures and improvements, if any.

E. The reason for tree removal per tree.

334-6 Term of Permit

Any and all permits approved by the Village Engineer shall be valid for a reasonable time, not to exceed 6 months from the date of issuance and shall automatically expire at the end of that period. The time period within which to complete the tree removal may be extended by the Village Engineer in writing, at the Village Engineer's sole discretion, considering, without limitation, planting seasons, ground conditions or other soil disturbance in the vicinity. Permits not used within the period prescribed by this section and any extensions granted by the Village Engineer will require a new application and the payment



of new fees. For purposes of this section and for clarity, a permit issued hereunder shall not be construed as 'continuing' and may not be used or construed as permitting removal of trees not specifically identified and authorized for removal on the Tree Save Plan. The authority granted within the Tree Removal Permit shall expire when the work authorized by the permit is completed.

334-7 Criteria for Denial of Permit

The Village Engineer may deny a permit if the removal will contribute to extra runoff of surface water onto adjacent properties, erosion or silting, and such conditions are not otherwise satisfactorily abated, or if the tree removal causes:

- A. Impairment to the growth or development of remaining trees on the applicant's property or upon adjacent properties;
- B. Soil instability;
- C. Creation of excessive dust and airborne particulates (which may result from the removal of the tree beyond that associated with removal and cutting);
- D. Drainage or sewerage problems;
- E. Dangerous or hazardous conditions; or
- F. Depression of the value of adjacent properties.

334-8 Application Fee and Funds Created

- A. The applicant, at time of filing the application, shall pay the application fee for each new or existing lot. No application shall be considered without the payment of the required fees. An inspection fee will be applied to all applications requiring an on-site verification.
- B. Residents may apply to extend the required replacement time period for reasons of financial hardship or other extenuating circumstances (ex: extreme drought). Please visit southorange.org or follow the hyperlink for the application.
- C. Tree Administrative Fund.

A Tree Administrative Fund shall be established and maintained by the Chief Financial Officer of South Orange Village to cover administrative costs to implement the provisions of this chapter, including but not limited to site inspections, processing of permits and supervision of tree replacements.



C. Tree Planting Program Fund

1. A Tree Planting Program Fund shall be established and maintained by the Chief Financial Officer of South Orange Village to receive and disburse replacement tree contributions inclusive of payments in lieu of replacement trees per §334-9, as well as private donations. Appropriations from the Tree Planting Program Fund shall be made in the discretion of the Village Administrator.
2. The primary purpose of said fund is to provide for the planting and maintenance of trees and shrubs on public property.

334-9 Tree Replacement

A. Applicability:

1. For the replacement of trees removed in conjunction with an application for development of property as either a minor or major subdivision or site plan, or in any other form of development where the approval of the Planning Board or Zoning Board of Adjustment will be required, the applicant shall submit to such Board a tree replacement plan or landscaping plan in a form and manner which complies with Village Code Land Development Regulations, Chapter 185 and the requirements below shall not be applicable, except as otherwise specifically noted in Village Code Land Development Regulations, Chapter 185.
2. For the removal of trees (i) not in conjunction with an application for development of property involving minor or major subdivision or site plan, (ii) in any other form of development where the approval of the Planning Board or Zoning Board of Adjustment is not required, or (iii) on any property otherwise specifically excluded, the following provisions of this section Village Code 334-9 shall apply.

B. Tree replacement schedule.

1. For each tree three inches in DBH or greater that is removed, unless exceptions apply, the applicant shall prepare a replanting, replacement plan or landscape plan for other areas of the property that shall reflect a tree replacement ratio based upon the following:

Number of Trees to be Removed	Size/Diameter (inches)	Number of Replacement Trees	Size of Replacement Trees (inches)
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1	Greater than 3 up to 10	1	2 to 2 1/2
2	Greater than 3 up to 10	2	2 to 2 1/2
1	Greater than 10 up to 16	2	2 to 2 1/2
1	Greater than 16 up to 23	3	2 to 2 1/2
1	Greater than 23 up to 30	4	2 to 2 1/2
1	Greater than 30	5	2 to 2 1/2

2. All proposed replacement trees shall be in accordance with selections from Trees For New Jersey Streets, published by the New Jersey Shade Tree Federation, and Street Tree Factsheets, a publication of the Municipal Tree Restoration Program.
 - B. The applicant will receive a one-for-one replacement tree credit for (i) stands of 10 or more trees greater than three inches in diameter be preserved within the limit of the disturbance line or (ii) forested areas of one acre or greater, which are left natural and protected in perpetuity by a recorded deed restriction, reviewed and approved by Village Counsel in writing, that such area will remain forested and undeveloped. This deed restriction excludes all previous dedicated easements.
 - C. Tree area replacement/reforestation. For each square foot of tree area to be removed, the applicant shall prepare a reforestation scheme on other treeless open space areas of the property to compensate for the tree removals. A mixture of trees, indigenous to the area and site, shall be utilized.
 - D. Proposed trees shall be planted in natural groves and may be spaced five feet to 20 feet on center. The ground shall be landscaped to mitigate soil erosion. The reforestation formula shall follow the guidelines as set forth in the New Jersey No Net Loss Reforestation Act, P.L. 1993, c. 106 (N.J.S.A. 13:1L-14.2).
 - E. Replacement trees should be of a similar species with comparable canopy coverage at its mature height of those proposed for removal.
 - F. All replacement trees shall:



1. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the Village;
 2. Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
 3. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.
- G. All replacement trees shall be planted on site in accordance with this Chapter. However, if one or more of the following conditions exist, some or all of the replacement trees may be planted off site or monetary contributions may be made in lieu of replacement trees in the amount of \$500 per tree:
1. The site in question cannot physically accommodate the total replacement amount of trees, and the applicant contributes an amount equal to the calculated monetary value of non-replaced trees to the Tree Planting Program Fund; or
 2. The Village and applicant agree in writing that the applicant shall make payment to the Tree Planting Program Fund; or
 3. The Village and applicant agree in writing that the applicant shall plant replacement trees off site on municipally owned property pursuant to the municipal tree planting plan.
- H. Exempt Areas
1. Agricultural operations are exempt from replacement requirements because such operations are governed by the Right to Farm Act, N.J.S.A. 4:1C-1 to 4:1C-10, which preempts local regulation. Property owners claiming exemption under this subsection must continue to farm the property in question as described on the tree removal permit for a minimum of five consecutive years after the date of clearing or date of commencement of the prescribed farming activity that is deemed compliant. An approved permit must be submitted prior to clearing. If the property is not farmed as prescribed on the tree removal permit within three years of the tree removal or is developed for any other use before the five years expires, the tree area replacement/reforestation scheme will be enforced.
 2. Utility line clearance operations, provided that such plan is filed and work performed in accordance with ANSI A300 Part 7: BMP Utility Pruning of Trees, and Board of Tree Experts Pruning Standards for Shade Trees, Section 5.5.
 3. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.



4. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan.
5. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife.
6. Hazard trees may be removed with no replacement requirement, though such removal would still be subject to the application procedures and associated fees.

334-10 Protection of existing trees during construction

- A. To the greatest extent possible, during all instances of any exterior construction by a resident, existing trees should be protected against harm. Accordingly, protective barriers shall be utilized as follows.
 1. Prior to construction and any tree removals, suitable tree protective barriers shall be erected, and this protection, where required, shall remain until such time as the protection is authorized to be removed or after issuance of a final certificate of occupancy. In addition, during construction, no attachments or wires shall be attached to any of said trees so protected. Where some grading must take place within the dripline of trees in the protection zone, appropriate measures shall be taken to minimize impact to the trees. Any trees seriously damaged during construction must be professionally treated by a New Jersey certified tree expert or replaced if the damage is beyond treatment.
 2. A detail of the existing tree self-supported protective barrier shall be provided on all applications where same is required. The protective barrier shall be a minimum of four feet high.
 3. The self-supported protective barrier shall be placed at the dripline of any tree along the limit of clearing and around the entire dripline for trees to remain undisturbed within the limit of clearing.
 4. It shall be unlawful for any person in the construction of any structure or other improvement to place solvents, material, construction machinery or temporary soil deposits within the dripline.
- B. Street right-of-way and utility easements may be delineated by placing stakes a minimum of 50 feet apart and tying ribbon, plastic tape, rope, etc., from stake to stake, along the outside perimeters of such areas to be cleared.
- C. Large property areas (separate from construction and land clearing areas) into which no equipment will venture may also be delineated by placing stakes a minimum of 50 feet apart and tying ribbon, plastic tape, rope, etc., from stake to



stake, along the outside perimeters of such areas.

334-11 Emergencies

In case of emergencies, such as hurricanes, fire, windstorm, ice storm, flood, freezing temperatures or other disaster, or in the case of dead or diseased trees which are a hazard to persons or property, the requirements of the regulations set forth in this chapter may be waived by the Village Administration upon a finding that such waiver is necessary so that the public or private work to restore order on the property will not be impeded.

334-12 Stop-work orders

- A. The Village Engineer or Village Code Enforcement is hereby authorized to issue stop-work orders to the holder of the tree removal permit and the Tree Specialist (to the extent one has been named) is authorized to recommend the issuance of stop-work orders in the event that there is:
 1. A failure to comply with an approved plan (such as but not limited to a site plan, tree save plan, reforestation scheme, forest management plan or soil conservation plan);
 2. Noncompliance with the tree removal permit granted pursuant to this chapter; or
 3. Noncompliance with the provisions of this chapter.
- B. The stop-work order shall remain in effect until the Village Administration, upon recommendation of the Tree Specialist, has determined that the resumption of work will not violate the plans, permit or the provisions of this chapter.

334-13 Enforcement

The Village Engineer or their designee shall oversee all tree removals pursuant to an issued tree removal permit and shall conduct adequate inspections of all sites for which a tree removal permit has been issued. Alleged violation of this chapter shall be referred for enforcement actions to the appropriate law enforcement officials.

334-14 Applicability to tree removal construction companies; permit required

All provisions of this chapter shall apply to all tree removal construction companies or persons in the business of removing trees or construction and shall include any person removing trees on behalf of any other person. It shall be unlawful for any person or company to remove or cause to be removed any tree or undertake any work for which a permit is required pursuant to this chapter unless a valid permit therefor is in effect and is displayed in accordance with the provisions; such removal or work shall constitute a



violation of this section and shall subject the person or company violating this section to all penalties provided within this chapter.

334-15 Display of permit; carrying of plan or authorization; right of entry

- A. The applicant shall prominently display on the site the tree removal permit issued. Such permit shall be displayed continuously while trees are being removed or replaced or work done as authorized on the permit and for 10 business days thereafter. In addition, the person or persons cutting or removing trees, if other than the applicant, shall carry with him/her authorization from the owner or applicant authorizing such person to cut or remove trees. In the event that the trees are being cut or removed in accordance with a forest management plan or a soil conservation plan, a copy of the plan shall be in the possession of the person cutting or removing such trees.
- B. As a condition for the issuance of the permit, the applicant agrees to the entry onto his/her premises as necessary to effectuate the provisions of this chapter, and such entries shall be deemed lawful. Failure to allow such entry shall be unlawful and shall constitute a violation of this chapter and shall constitute failure to comply with the terms and conditions of the permit as required herein. It shall be unlawful and considered a violation of this chapter for any person to engage in the business of plant cutting, trimming, removal, spraying or otherwise treating trees, shrubs or vines within the Village and without the applicable certification or license for the designated work. All contractors offering tree care services for hire within South Orange Village shall register annually with the Village Clerk, be registered with the State of New Jersey Board of Tree Experts, provide a copy of the full time Licensed Tree Expert in such business' employ or Licensed Tree Care Operators licenses, provide a current certificate of insurance showing evidence of employer liability and workers' compensation coverage for the work to be performed, and shall comply with applicable OSHA regulations, ANSI Z133.1 Safety Standards, New Jersey Board of Tree Experts Pruning Standards for Shade Trees and ANSI A300 Practice Standards.

334-16 Duties and Authority of Tree Specialist

The Tree Specialist (if named) may perform all duties set forth in this chapter as may be delegated to such individual by the Village Administrator or Village Engineer and may assume responsibility for the enforcement of the provisions of this chapter in conjunction with the Village Engineer and Code Enforcement Office as permitted by law. In this regard, the Tree Specialist shall be authorized and may perform any necessary inspections and is further authorized and, to the extent permitted by law, issue violation notices and shall sign complaints and provide testimony in the Municipal Court for violations of this chapter.



334-17 Violations and penalties

- A. Any person, firm, partnership, corporation, association or other legal entity violating any of the provisions of this chapter shall, upon conviction of such violation, be punished by a fine of \$2,000 for each violation, in the discretion of the Judge before whom conviction may be had. Each illegally removed tree shall be considered a separate violation. Each violation of any of the provisions of this chapter and each day the same is violated shall be defined and taken to be a separate and distinct offense. In addition, the court may order restitution for the appraised value or replacement of the tree illegally removed together and in addition to the imposition of any fine or other penalty.
- B. In addition to other remedies, the Village may institute any appropriate legal action to prevent a continuing violation of the terms of this chapter.

SECTION 3.

Village Code Chapter 185, Article XVI – Improvements and Design Standards, Section 100 – Shade Trees, Landscaping and Planting Strips is hereby deleted in its entirety.

SECTION 4.

Village Code Chapter 185, Article XVI – Improvements and Design Standards, Section 100 – Shade Trees, Landscaping and Planting Strips is hereby amended and restated as follows:

185-100 Shade Trees, Landscaping And Planting Strips

- A. The planting of shade trees and landscaping shall be provided in all residential subdivisions and in all subdivisions of other kinds. The intervals, types, sizes and locations of the trees and shrubs shall be conducive to healthy growth, in good proportion and according to standards adopted by the governing body and the Shade Tree Committee, and shall be so located as not to interfere with street paving, sidewalks or utilities.
- B. All trees should be of an appropriate species grown under the same climatic conditions as at the location of the development. They shall be of symmetrical growth, free of insect pests and disease, suitable for street use and durable under the maintenance contemplated.
- C. All planting strips within street rights-of-way shall be finished, graded, properly prepared and seeded or sodded with lawn grass in conformance with good nursery practice.



- D. A tree belt not less than 3.5 feet wide between the curb and walk shall be provided along all subdivided properties, new public and private/internal streets of a subdivision.
- E. Street trees should be provided along every external and internal street frontage. Minor deviations to spacing can be provided to accommodate driveways and utility features, but the minimum ratio of 1 tree per 30 to 50 linear feet shall be met. Spacing dependent on type and spread of trees.
- F. Other than single or two-family driveways, all parking and loading areas must have perimeter year-round landscape screening, consisting of a minimum of 3' wide strip, minimum 3' tall, and providing spacing and density to screen headlight glare.
- G. A minimum of 1 shade tree should be provided for every 5 parking spaces, which shall be planted around and/or within the parking area. The preservation or relocation of existing trees is encouraged to meet this requirement. This provision excludes trees required for landscape buffers or street tree planting.
- H. Parking lots for more than 25 vehicles shall contain planting islands at a rate of 1 island per 25 cars, to reduce heat island effect, which will be landscaped and contain shade trees.
- I. See §185-104, 185-117, and 185-118 for additional landscaping standards.

SECTION 5.

Village Code Chapter 185, Article XVIII –Design Criteria, Section 113 – Off-Street Parking Requirements, 185-113(F) is hereby amended and restated as follows:

F. Landscaping of parking areas:

1. Other than single or two-family driveways, all parking and loading areas must have perimeter year-round landscape screening between the parking lot and adjacent property lines, right-of-ways, or residential buildings, consisting of a minimum of 3' wide strip, minimum 3' tall, and providing spacing and density to screen headlight glare. If the conditions are not sufficient to accommodate natural landscaping, then a fence or wall may be installed, subject to the approving authority.
2. A minimum of 1 shade tree should be provided for every 5 parking spaces, which shall be planted around and/or within the parking area. The preservation or relocation of existing trees is encouraged to meet this requirement. This provision excludes trees required for landscape buffers or street tree planting.



3. Parking lots for more than 25 vehicles shall contain planting islands at a rate of 1 island per 25 cars, to reduce heat island effect, which will be landscaped and contain shade trees.
4. Additional buffering may be required, per Section 185-118.

SECTION 6.

Village Code Chapter 185, Article XVIII –Design Criteria, Section 113 – Off-Street Parking Requirements, 185-113(O) is hereby deleted in its entirety.

SECTION 7.

Village Code Chapter 185, Article XVIII –Design Criteria, Section 117 – Landscaping Requirements is hereby deleted in its entirety.

SECTION 8.

Village Code Chapter 185, Article XVIII –Design Criteria, Section 117 – Landscaping Requirements is hereby amended and restated in its entirety.

185-117 Landscaping Requirements

- A. Landscaping plan. A landscaping plan shall be submitted with each site plan application. The plan shall identify existing and proposed trees, shrubs, bushes, plant material, ground cover and natural features, such as boulders and rock outcroppings. It should show where they are or will be located and the planting details. When existing natural growth is proposed to remain, the applicant shall include in the plans proposed methods to protect the existing trees and growth during and after construction. These shall include fences, berms, curbing, tree walls and similar devices.
- B. Plan principles. The following principles should be followed:
 1. Locate landscaping to provide for climate control; for example, shade trees on the south to shield the hot summer sun and evergreens on the north for windbreaks.
 2. Use landscaping to accent and compliment buildings; for example, groupings of tall trees to break up long, low buildings and lower plantings for taller buildings.
 3. Landscaping should be provided in public areas, recreation sites and adjacent to buildings.
 4. Vines and climbing plants should be considered for large expanses of walls.



5. Consider massing trees at critical points rather than in a straight line at predetermined intervals along streets. Vary types by neighborhood.
6. Use smaller trees on narrow streets.
7. Use ground cover extensively to prevent erosion.
8. Provide for a variety and mixture of landscaping. The variety should consider susceptibility to disease, colors, season, textures, shapes, blossoms and foliage.
9. Consider local soil conditions and water availability in the choice of landscaping.
10. Consider the impact of any proposed landscaping plan at various time intervals. Shrubs may grow and eventually block sight distances. Foundation plants may block out buildings.
11. Retain existing trees to the maximum extent possible.
12. Landscape all portions of the property not used for buildings, parking, loading and other similar uses.
13. It is preferable to have fewer large specimens than more numerous smaller ones.
14. Avoid any tree varieties whose roots will clog drains or damage sidewalks, pavement areas, etc.; also, avoid trees whose fruit or leaf droppings create pedestrian safety problems or unnecessary maintenance.
15. Choose trees that can stand an urban environment.
16. Tree pits are encouraged to provide green infrastructure.

C. Specifications.

1. Approved varieties. The varieties or species selected for landscaping and screening shall be selected from the approved Species List, or specifically approved by the approving authority.
2. Street trees should be provided along every external and internal street frontage. Minor deviations to spacing can be provided to accommodate driveways and utility features, but the minimum ratio of 1 tree per 30 to 50 feet shall be met. Spacing dependent on type and spread of trees.
3. Trees caliper should be consistent with the Tree Replacement Schedule detailed in Village Code 334-9(A), as may be amended, measured six inches above the ground



at planting, and evergreens should be at least four feet tall. Shrubs should be at least two feet tall at planting. All trees should be balled and burlapped.

4. Entrances to sites deserve special landscaping treatment.
5. The landscaping should be located in protected areas, such as along walkways, center island and at the end of bays. In narrow islands, low spreading plants, such as creeping juniper, English ivy, myrtle or pachysandra are appropriate.
6. All trees existing on a site that is the subject of a site plan or subdivision application must be shown on the plan, as described in the Board Application Checklist with details regarding caliper, removal details, protection details, etc.
7. Street trees shall be planted in a tree belt or perimeter landscape buffer area if provided, or a tree pits shall be installed. Tree pits shall be a minimum of 20 SF so long as one side is at least 3' in length. Tree pits installed in the right-of-way are subject to Village approval.
8. See Section 185-113 for standards specific to landscape around parking areas
9. See Section 185-100 for standards specific landscape related to subdivisions
10. See Section 185-118 for standards specific to buffering
11. See Chapter 334 for requirements for tree removal, protection, replacement, and process.

SECTION 9.

Village Code Chapter 185, Article XVIII –Design Criteria, Section 118 – Buffer Requirements is hereby deleted in its entirety.

SECTION 10.

Village Code Chapter 185, Article XVIII –Design Criteria, Section 118 – Buffer Requirements is hereby amended and restated in its entirety.

185-118 Buffer Requirements

- A. Purpose: Buffers are landscaping, berms and combinations thereof used to minimize adverse effects or nuisance on the site or from adjacent areas.
- B. Buffers are required in the following circumstances:



1. Where a non-permitted use is proposed, expanded, intensified, or reconfigured, a perimeter buffer should be provided.
2. Where height variances are sought:
 - a. a buffer should be provided that is a minimum of 10' wide plus additional width equivalent to the difference between the required height and proposed height; and
 - b. a buffer should be provided that is a minimum of 6' tall plus additional height equivalent to the difference between the required height and proposed height.
- C. Buffers should be provided along zone boundary lines where commercial and residential zones are adjacent.
- D. Except on permitted single-and two-family residential properties, buffers shall be provided around accessory structures (i.e. trash enclosures, parking areas, patios, recreation areas, etc.) when located within 50' of a residential property.
- E. Buffers should be minimum width of 10', regardless of setback requirements for that zone or use. On lots with less than 75' width, the buffer width may be reduced to 10% of the lot width, but shall be no less than 5' wide.
- F. The buffer area should be planted with a double row of evergreens which shall be staggered and space to form a solid buffer, minimum 6' tall.
- G. In certain cases, the Approving Authority may permit fencing or walls in lieu of a planted buffer. Fences or walls should comply with the applicable ordinance requirements. If a combination of fencing/walls and landscaping is proposed or required, the vegetation should be to the benefit of the off-site uses and located exterior of the fencing or wall.

SECTION 11.

Village Code Chapter 143 – Fees, Section 143-33 Trees and Shrubbery is hereby amended and restated as follows:

143-33 Trees and Shrubbery

Description	Code Section	Fee
Tree removal permit fee	§334-4(A)	\$100



Inspection fee for all sites requiring on-site verification	§334-4(A)	\$25
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SECTION 12.

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

SECTION 13.

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

SECTION 14.

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			
Jones	X		X			
Lewis-Chang		X	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 October 28, 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 November 25, 2024.

Ojetti E. Davis
Village Clerk

Adopted:

Attest:

Sheena C. Collum
Village Mayor

Ojetti E. Davis
Village Clerk