



Township of South Orange Village
101 South Orange Avenue, South Orange, N.J. 07079

Village Hall (973) 378-7715
Fax (973) 761-4357

Building Department
(973) 378-7715 ext. 7700

SOIL DISTURBANCE PERMIT

(Revised 8-22-11)

NOTE: No person, firm, association or corporation shall relocate, fill, grade, excavate, store, remove or import any soil or fill in excess of the amount set forth in § 135-8A of this Code to, from or within the Township of South Orange Village without obtaining a permit from the Township of South Orange Village.

Two types of permits for soil disturbance may be issued as follows: (*MINOR or MAJOR*)

- A. **MINOR soil disturbance.** The Construction Official can issue a permit, provided the work is for:
1. The reconstruction, replacement or repair of existing retaining walls, footings or foundations that do not require regrading of the property as defined in Subsection **B**, Major soil disturbance permit.
 2. Building additions, decks, patios, walks, driveways and swimming pools on single-family and two-family properties that do not require extensive regrading of the property as defined in Subsection **B**, Major soil disturbance permit.
 3. Landscaping improvements that include minor regrading and new retaining walls less than four feet high.
 4. For a minor soil disturbance permit, a flat fee of \$25 shall accompany the permit application.
 5. See page 4 for permit review/approval.
- B. **MAJOR soil disturbance.** This permit requires approval of the Planning Board and is for:
1. Extensive regrading of the property that may result in adverse effects to the Village's drainage system or neighboring properties, as determined by the Village Engineer.
 2. Construction of retaining walls equal to or greater than four feet high.
 3. Construction of a new single-family or two-family house.
 4. For a major soil disturbance permit, each application shall be accompanied by a permit fee of \$0.50 per cubic yard multiplied by the number of cubic yards to be dealt with. The basic permit fee shall not be less than \$25 nor shall it exceed \$500.
 5. In addition, for a major soil disturbance permit, the applicant shall establish with the Township of South Orange Village an escrow account to cover the reasonable costs of professional engineering, soil testing, planning and legal review of the project as well as fees for the inspection of the project before, during and after its completion. See Ch 135-4C.
 6. See pages 5-7 for additional required information.

**ANSWER ALL QUESTIONS ON THIS APPLICATION FORM & SUBMIT TO THE
BUILDING DEPARTMENT**

- A. The name and address of the owner or owners of the premises involved and the name and address of the applicant, if a different person is involved. The signed consent of the owner shall be required if the applicant is not the owner.

NOTE: SIGNED CONSENT OF THE OWNER SHALL BE REQUIRED IF THE APPLICANT IS NOT THE OWNER OF THE PREMISES. (SEE ITEM 'N' ON PAGE 4).

Name & Address of Owner(s) of Premises: _____

Telephone No. _____

Name & Address of Applicant: _____

Telephone No. _____

- B. A map of all premises affected and for which the permit is sought, showing the existing topographical contour lines of the land involved and abutting lands and roads, the proposed topographical contour grades which will result from the intended work and the location on the premises of all buildings presently existing or planned.
- C. The tax block _____ and lot number _____ of the premises affected.
- D. A detailed description of all procedures and processes included in the proposed work, including a description of equipment, vehicles and facilities to be used.

- E. The name and address of the person who is doing the work.

- F. The names and addresses of the owners of all affected premises, including the premises from which any soil is being taken for transmission into the village.

- G. The origin site of any soil imported and the destination site of any soil removed.

H. If the application is for the importation of soil into the village, a certificate from a reputable testing firm which has been approved by the New Jersey Department of Environmental Protection certifying that the soil has been tested and found to be free of contaminants or other materials which are deemed to be toxic under any federal or state law. The certificate shall set forth with specificity the tests performed by the testing firm.

I. The number of cubic yards of soil or fill to be moved. _____

J. Routes used in transporting the soil or fill.

K. Period for which the permit is sought but not to exceed six months.

L. Such additional information as the Engineering/Zoning Department may deem necessary to enable a proper review of the proposed work.

M. The application and supporting documents may be referred by the Construction Official to the Village Engineer for additional review. After the application is submitted and reviewed, the Code Official may do one of the following:

1. Issue a minor soil disturbance permit;
2. Issue a minor soil disturbance permit with conditions; or
3. Refer the application to the South Orange Planning Board for review and approval of a major soil disturbance permit.

If the application is referred to the Village Planning Board for a major soil disturbance permit,
See Ch.135-5B

N.

APPLICANT CERTIFICATION:

I certify that the forgoing statements and the materials submitted are accurate and true. I further certify that I am the Individual Applicant or that I am an Officer of the Corporate Applicant and that I am authorized to sign the Application for the Corporation or that I am a General Partner of the Partnership Applicant.

I acknowledge that the application Fee submitted with the Application is non-refundable and that I have been advised further the escrow review fee will be deposited in an escrow account. The escrow fee is established to cover the costs of professional services including engineering, planning, legal and other expenses associated with the review of the Application. Monies not utilized in the review process shall be returned in accordance with the applicable Ordinances.

Signature of Applicant

Sworn to and subscribed before me
this _____ day of _____, 20_____

Notary Public _____

OWNER CERTIFICATION:

I certify that I am the Owner of the property which is the subject of this Application, and if I am not the Applicant in this matter that I have authorized the Applicant to make this Application.

Signature of Owner

Sworn to and subscribed before me
this _____ day of _____, 20_____

Notary Public _____

For Office Use Only

Check One (√): MINOR PERMIT _____ MAJOR PERMIT _____

Application Approved by Engineering Department as Noted:

Salvatore Renda, Village Zoning Officer

Date

Permit Issued by Building Department as Noted:

Anthony Grenci, Village Construction Official

Date

Date: _____

Ellen Foye Malgieri, Tax Assessor
Village Hall
101 South Orange Avenue
South Orange, New Jersey 07079

Premises Affected:

This is to certify that application has been filed for appearance before the
PLANNING BOARD / BOARD OF ADJUSTMENT (circle one) at its public hearing on

Request is hereby made for a certified list of names and addresses of property
owners within 200 feet of property located at _____ to
whom I am required to give notice of such hearing.

A check in the amount of \$20.00 is herewith enclosed.

Sincerely,

Applicant or Applicant's Attorney

Address

c: Salvatore Renda, Village Engineer

NOTICE TO PROPERTY OWNERS

TO: _____

PLEASE TAKE NOTICE:

That the undersigned has filed an appeal or Application for development with the

Zoning Board of Adjustment

Planning Board

of the Township of South Orange Village.

The Application proposes to (erect, alter or construct)

The Application requires a variance from the requirements of the Land Development Ordinance so as to permit
(include Section Number):

The premises which is subject to this Application is known as: (Street Address)

And designated as Lot _____ Block _____ on the Township of South Orange Village Tax Map, and this notice is being sent to you as an owner in the immediate vicinity.

**A Public Hearing has been set down for _____, 20____ ,
At _____ p.m. at the Village Hall, 101 South Orange Avenue, South Orange, N.J.**

You may appear at that time and place to speak either for or against the Application.

All Plans and supporting documents are on file in the office of the Board Secretary and are available for inspection Monday - Friday, 9:00 a.m. - 4:00 p.m.

This Notice is sent to you by the Applicant by order of the Board.

Respectfully,

Applicant's Signature

7029K(1-20)

SOUTH ORANGE PLANNING BOARD

Village Hall, South Orange, New Jersey

AFFIDAVIT OF SERVICE

STATE OF NEW JERSEY:

:SS

COUNTY OF ESSEX

On this _____ day of, _____ Two Thousand and _____
before me personally came _____ of legal age and to me
known, who being by me duly sworn, did depose and say that he resides at
_____; that he has
served upon the persons as per attached list, notices, a copy of which is attached, of
public hearing to be held by the Planning Board on _____, at 7:30 P.M., in
the Village Hall, South Orange, New Jersey; and relating to property at
_____; that said notices were
served not less than ten days prior to said date of hearing; that said list of persons comprising
all the owners of property located within a radius of two hundred (200') feet from such property
have been notified as required by law and the Rules of Procedure of said Planning
Board.

Sworn to Before Me this _____ Day

Of _____, 20_____.

(Notary Public) _____ L.S.

NOTE: List separately the names and addresses of those persons served personally and those served by registered mail, attaching registered mail return receipts.

Chapter 135 Soil Removal & Filling

[HISTORY: Adopted by the Board of Trustees of the Township of South Orange Village 2-23-1981 by Ord. No. 81-6; amended in its entirety 1-23-1989 by Ord. No. 88-37. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Public utilities — See Ch. 119.

Quarrying — See Ch. 120.

Streets and sidewalks — See Ch. 138.

Land development — See Ch. 92.

135.1. Aims & Objectives

A. Unregulated and uncontrolled relocation, filling, grading, excavation, storage, removal or import of soil or fill to, from or within the Township of South Orange Village could result in conditions detrimental to the public safety, health and general welfare, substantially hampering and deterring the efforts of the Township of South Orange Village to effectuate many of the general purposes of land regulation as set forth in Chapter 92, Land Development, of this Code.

B. In addition, the allowance of such activity could result in serious and irreparable damage to the public welfare of the village by reason of consequent soil and groundwater contamination, soil erosion, inadequate and improper surface water drainage, decrease in or destruction of the fertility of the soil, removal of lateral support of abutting streets, lands and premises, creation of the possibility of conditions which could create dust storms and mosquito-breeding places, creation of dangerous depressions or pits, the deterioration of property values, rendering of lands unfit or unsuitable for their most appropriate uses and creation of other factors and elements hampering and deterring the coordinated, adjusted and harmonious physical development of the Township of South Orange Village.

C. This chapter of this Code of the Township of South Orange Village is designed to prevent those effects.

135.2. Permit Required. [Amended 11-27-2006 by Ord. No. 06-21]

No person, firm, association or corporation shall relocate, fill, grade, excavate, store, remove or import any ~~soil~~ or fill in excess of the amount set forth in § 135-8A of this Code to, from or within the Township of South Orange Village without obtaining a permit from the Township of South Orange Village. Two types of permits for ~~soil~~ disturbance may be issued as follows.

A. Minor soil disturbance permit. The Construction Official can issue a permit, provided the work is for:

(1) The reconstruction, replacement or repair of existing retaining walls, footings or foundations that do not require regrading of the property as defined in Subsection B, Major soil disturbance permit.

(2) Building additions, decks, patios, walks, driveways and swimming pools on single-family and two-family properties that do not require extensive regrading of the property as defined in Subsection B, Major soil disturbance permit.

(3) Landscaping improvements that include minor regrading and new retaining walls less than four feet high.

B. Major soil disturbance permit. This permit requires approval of the Planning Board and is for:

(1) Extensive regrading of the property that may result in adverse effects to the Village's drainage system or neighboring properties, as determined by the Village Engineer.

(2) Construction of retaining walls equal to or greater than four feet high.

(3) Construction of a new single-family or two-family house.

135.3. Application for Permit.

The applicant shall make application for a soil disturbance permit on a form available from the Construction Official of the Township of South Orange Village. The application, which shall be supported by proper data and documents where required, shall reveal at least the following:

- A. The name and address of the owner or owners of the premises involved and the name and address of the applicant, if a different person is involved. The signed consent of the owner shall be required if the applicant is not the owner.
- B. A map of all premises affected and for which the permit is sought, showing the existing topographical contour lines of the land involved and abutting lands and roads, the proposed topographical contour grades which will result from the intended work and the location on the premises of all buildings presently existing or planned, all trees entitled to protection under any provision of this Code,
Editor's Note: For tree protection provisions, see Ch. 149, Trees and Shrubbery.
any stream or other bodies of water near the premises and such other details as would be required for a site plan being submitted with a development application under Chapter 92 of this Code.
- C. The tax block and lot number of the premises affected.
- D. A detailed description of all procedures and processes included in the proposed work, including a description of equipment, vehicles and facilities to be used.
- E. The name and address of the person who is doing the work.
- F. The names and addresses of the owners of all affected premises, including the premises from which any soil is being taken for transmission into the village.
- G. The origin site of any soil imported and the destination site of any soil removed.
- H. If the application is for the importation of soil into the village, a certificate from a reputable testing firm which has been approved by the New Jersey Department of Environmental Protection certifying that the soil has been tested and found to be free of contaminants or other materials which are deemed to be toxic under any federal or state law. The certificate shall set forth with specificity the tests performed by the testing firm.

I. The number of cubic yards of soil or fill to be moved.

J. Routes used in transporting the soil or fill.

K. Period for which the permit is sought but not to exceed six months.

L. Such additional information as the Construction Official may deem necessary to enable a proper review of the proposed work.

[Amended 11-27-2006 by Ord. No. 06-21]

The application will be submitted to the Construction Official. The Construction Official will make the determination whether the application is for a minor soil disturbance permit or a major soil disturbance permit.

[Added 11-27-2006 by Ord. No. 06-21]

135.4. Fees; Escrow Account.
[Amended 11-27-2006 by Ord. No. 06-21]

- A. For a minor soil disturbance permit, a flat fee of \$25 shall accompany the permit application.
- B. For a major soil disturbance permit, each application shall be accompanied by a permit fee of \$0.50 per cubic yard multiplied by the number of cubic yards to be dealt with. The basic permit fee shall not be less than \$25 nor shall it exceed \$500.
- C. In addition, for a major soil disturbance permit, the applicant shall establish with the Township of South Orange Village an escrow account to cover the reasonable costs of professional engineering, soil testing, planning and legal review of the project as well as fees for the inspection of the project before, during and after its completion. The Village Engineer shall determine the amount of such escrow. The applicant shall deposit the amount requested within seven days of receiving notice as to the amount required. The funds shall be deposited in an escrow account by the Village Treasurer to be used as follows:
- (1) The Engineer, testing firm, planning consultant, approving authority, Attorney and any other professionals engaged shall submit vouchers in usual form for all necessary fees for examination and review which shall be paid by the village in an ordinary manner.
 - (2) Any of the aforesaid moneys left in the escrow account upon completion of the project shall be returned to the applicant as soon as it is possible.
 - (3) Should the original funds become exhausted, such additional funds as shall, in the judgment of the approving authority, be necessary, shall be paid by the applicant to the Treasurer of the Township of South Orange Village and shall also be placed in the appropriate account or accounts.
 - (4) Upon receipt of sufficient funds for the escrow account, the administrative officer shall notify the professionals engaged that all appropriate examinations and reviews shall be undertaken.

135.5. Preliminary Reviews.
[Amended 11-27-2006 by Ord. No. 06-21]

A. The application and supporting documents may be referred by the Construction Official to the Village Engineer for additional review. After the application is submitted and reviewed, the Code Official may do one of the following:

- (1) Issue a minor soil disturbance permit;
- (2) Issue a minor soil disturbance permit with conditions; or
- (3) Refer the application to the South Orange Planning Board for review and approval of a major soil disturbance permit.

B. If the application is referred to the Village Planning Board for a major soil disturbance permit, the Village Engineer will prepare a complete report for submission to the Planning Board to aid it in arriving at its decision as to whether a permit shall be granted. In preparing this report, the Engineer shall be guided by considerations of public health, safety and general welfare and, in particular, the following factors:

- (1) Soil and groundwater contamination. In considering this item, the Village Engineer shall review all test results and make such comment upon the same as may be necessary. If the Village Engineer feels that additional tests are required, he shall specify such tests and the reasons for the recommendation.
- (2) Erosion by water and wind.
- (3) Noise and air pollution.
- (4) Surface and subsurface water drainage.
- (5) Grades and elevations of adjoining streets and lands.

(6) Soil fertility.

(7) The effect of the project being proposed upon the lands in question, upon nearby lands and upon trees entitled to protection under the Village Code and upon the village in general. In making such determination, the Village Engineer shall consider the value and uses of the other lands as affected by the work being contemplated and the land values and uses of the land upon which the work is to be done.

(8) Noise, traffic and roadway maintenance caused and required due to the transporting of the soil or fill upon the public roadways of the village.

(9) Lateral support of public streets, roads and highways and of adjoining properties.

(10) Grades, elevations and depths to be excavated or filled, so that the lands after excavation or fill shall be generally level and no stagnant water will remain thereon or, if not so level, that the runoff of said water will not unduly harm a neighboring property.

(11) Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the village and the public health and safety of the residents.

135.6. Hearing, Notices and Decisions.

A. The Planning Board shall, within a reasonable time after receipt of the application and the reports described in § 135-5A and B, fix a date for a hearing for the purpose of considering the application and shall give to the applicant, by registered mail, notice of the time and place of said hearing. The applicant shall, at least 10 days prior to the date appointed for said hearing, serve written notice, either in person or by registered mail, upon such persons as are shown on the municipal tax records to be the owners of such lots within 200 feet of the property in question. The applicant shall, at the hearing, present to the Planning Board satisfactory proof, in affidavit form, of the service of said notices.

B. In considering the application, the Planning Board shall be guided by the general purpose of municipal planning and shall take into consideration those factors enumerated in § 135-5A and such other factors as may be brought to the attention of the Planning Board by its staff and consultants or by the public. The Planning Board shall also keep in mind the aims and objectives of this chapter as set forth in § 135-1.

C. Grounds for denial.

- (1) The Planning Board shall deny the permit if it should find that the proposed work:
- (a) Shall endanger or damage any adjacent property, including public streets, sidewalks, alleys or rights-of-way.
 - (b) Shall endanger or damage any tree which is entitled to protection under any provision of the Village Code.
 - (c) Will adversely affect existing drainage conditions on any adjacent property, including public streets, sidewalks, alleys or rights-of-way.
 - (d) Will substantially increase the natural flow of surface or subterranean waters on any adjacent property, including public streets, sidewalks, alleys or rights-of-way.
 - (e) Will create a condition which is inimical to public health, safety and welfare.
 - (f) Will defeat or prevent the occurrence in the village of the carrying out of the aims and purposes of this chapter.

(2) If the Planning Board shall be able, however, to devise conditions which will prevent the deleterious effects set forth above, then the finding of such deleterious effects shall not be grounds for denial of the application, if said defect can be corrected and the applicant agrees to abide by the conditions to be imposed by the Planning Board.

D. The Planning Board shall review and consider the application and such other reports and testimony as it may receive and shall render its report and recommendation through the passage of an appropriate resolution in accordance with the statutes of the State of New Jersey. Upon receipt of a certified copy of the resolution, the Construction Official of the Village of South Orange shall grant or refuse the permit in accordance with such resolution. Such report and resolution, which shall accompany all recommendations, shall be made within 150 days after receipt of the application. Said one-hundred-fifty-

day period shall commence with the filing with the Secretary of the Planning Board of the application and the reports set forth in § 135-5A and B of this Code.

135.7. Issuance of permit, performance Bond

A. Before any permit for excavation, removal, filling or grading shall be issued, the owner of the premises or the applicant shall execute and file with the Construction Official a contract, in writing, in a form acceptable to the Planning Board Counsel, which contract shall evidence the obligation of the owner to indemnify and hold the village harmless against any costs or liability which the village may incur because of the failure of the owner to comply with the provisions of this chapter or the permit granted to said owner. In addition, the contract shall provide that the owner will pay for the cost of all cleanup operations ever required in connection with any such premises should it be discovered that any soil or fill brought into the village and placed upon the land is contaminated.

B. In addition to the contract just referred to, the owner shall file with the village a bond or irrevocable bank letter of credit in a form acceptable to the Village Counsel and with a surety license to do business in the State of New Jersey, which bond or letter of credit shall be in such amount as, in the opinion of the Village Engineer, will be sufficient to indemnify the village from any failure of the holder of the permit to comply with the provisions of the contract just described. Upon receipt of the contract and the bond, the Construction Official of the Village of South Orange shall issue the permit in accordance with the resolution and recommendations of the Planning Board of the village.

135.8. Exemptions from permit and bond requirements

A. A permit and performance bond shall not be required to be obtained in the following instances:

- (1) Relocation, filling, grading, excavation or storage of less than five cubic yards of soil or fill within any six-month period.
- (2) Work performed in accordance with a validly issued construction permit, provided that the construction called for was subject to site plan review by the Planning Board of the Township of South Orange Village and provided that the removal, excavation, storage, importation, filling or grading of soil accompanying said construction work was called to the attention of the Planning Board at the time of such application for site plan review and was approved by said Board.
- (3) ~~Work performed by or for the Township of South Orange Village in connection with improvements and construction being carried out by said Township.~~
- (4) Work performed by public utility companies in the beds of streets, which work involves making openings in said beds of streets for the purpose of installing or repairing utilities. The exemption granted hereunder shall not be deemed to exempt said utilities from any other regulations or ordinances of the Township of South Orange Village which require the securing of permits for the openings of said beds of streets.

B. Although a permit, contract or performance bond shall not be required in the above instances, all work shall be performed in such a manner so as not to create any condition for which a permit could be denied under the other provisions of this chapter. While it is the intention of this section to create an exemption for certain categories of work, it is also the intention that all excavation, removal, filling or grading within the Township of South Orange Village shall be performed in accordance with the terms, standards and criteria set forth in this chapter.

C. This chapter shall not be deemed to apply to any quarry located within the village which is operating pursuant to a license granted by the village.

[Added 6-26-1989 by Ord. No. 89-16]

135.9. Reserved

135.10. Final Grades

A. The owner of the premises, the applicant or the person in charge of the removal of soil, when a permit has been duly granted, shall not take away the top layer or arable soil for a depth of six inches, but such top layer or arable soil to a depth of six inches shall be set aside for retention on the premises and respread over the premises when the rest of the soil has been removed, pursuant to the levels and contour lines approved by the Planning Board at the time of the hearing referred to above.

B. The owner, applicant or the person in charge of the removal of the soil shall make provision for the use in said work of soil or such other materials as will not result in deviation from the proposed final grades referred to or the uniformity thereof by reason of abnormal shrinkage or settlement.

C. In carrying out the duties imposed by this section of this chapter, the owner of the premises, the applicant or the person in charge of the removal or grading of the soil shall be sure that the topsoil referred to shall not be buried with any soil or other material of inferior quality.

135.11. Enforcement

The Construction Official is hereby vested with the duty of enforcing and administering this chapter and with all other duties and powers provided herein.

135.12. Violations & Penalties

[Amended 2-22-1999 by Ord. No. 99-2]

Notwithstanding any other provision of this chapter, any person who violates any provision of this chapter shall be subject to punishment as set forth in § 1-20 of this Code.