

SOUTH ORANGE VILLAGE
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ORDINANCE #2022-34

Introduction: November 14, 2022

Adoption:

AN ORDINANCE OF THE TOWNSHIP OF SOUTH ORANGE VILLAGE IN ESSEX COUNTY, NEW JERSEY AMENDING VILLAGE CODE CHAPTER 185 TO PERMIT ACCESSORY DWELLING UNITS AS PROVIDED HEREIN

WHEREAS, the Township of South Orange Village recently undertook an extensive reexamination of its Master Plan; and

WHEREAS, in the course of the Master Plan reexamination, public comment showed overwhelming support for permitting Accessory Dwelling Units in one and two-family residential zones for the purpose of providing additional variety of housing options in the Village.

NOW THEREFORE, BE IT ORDAINED, by the Board of Trustees of the Township of South Orange Village, County of Essex, State of New Jersey, as follows:

SECTION 1.

Village Code Section 185-3 Definitions; Word Usage is hereby amended and restated by adding and amending the following definitions:

ACCESSORY DWELLING UNIT: A self-contained portion of a principal, one-family dwelling, two-family dwelling, or an accessory structure, used as a secondary housing unit independent of the primary dwelling unit, that can only be used as a residence for occupancy by one family/housekeeping unit for 90 days or greater, on the same lot as a one or two-family dwelling where the owner lives on site, that is smaller in size and height than the principal building on the lot that serves as a dwelling unit. (See "Dwelling Unit" definition in §185-3). The addition of an accessory dwelling unit to a lot on which a single-family dwelling exists shall cause such lot, for all subsequent purposes, to be considered, classified and assessed as a two-family lot (and such calculation shall progress accordingly).

BUILDING, PRINCIPAL — A structure in which is conducted the principal use of the site on which the building is situated. In any residential district, any dwelling shall be deemed to be a principal building on the lot on which it is located; except that an Accessory Dwelling Unit shall not be considered or designated as the Principal Building.

DWELLING, TWO-FAMILY: A detached building occupied or intended to be occupied exclusively for residential purposes by two families or two housekeeping units.



DWELLING, MULTI-FAMILY: A detached building occupied or intended to be occupied exclusively for residential purposes by more than two families or more than two housekeeping units.

GREENHOUSE: A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for subsequent sale or personal enjoyment.

RESIDENCE: A home, abode, or place where an individual is actually living at a specific point in time.

RESIDENTIAL RECREATION STRUCTURE: A structure subordinate in size to the principal structure that contains a residential recreation use as defined below.

RESIDENTIAL RECREATION USE: A use subordinate, incidental, and accessory to a permitted principal use including structures and services that serve swimming pools (such as cabanas), outdoor showers, outdoor kitchen facilities, firepits, buildings housing toilets and sinks separate from the principal permitted structure, and any similar or related uses and structures as determined by the Zoning Official. This does not include structures used for overnight occupancy with bedrooms, indoor shower, stove, and oven, or anything else that would constitute as a dwelling unit. This does not include structures that are used for commercial purposes.

SHORT TERM RENTAL: shall mean the rental for compensation of a dwelling, or portion of a dwelling, for the purpose of overnight lodging for a period of not less than one night and not more than twenty-eight (28) consecutive days. This definition shall not include hotels, motels, bed and breakfast inns, or tenants that have month to month leases permitted by N.J.S.A. 46:8-1 et seq.

SECTION 2.

Village Code Section 185-167 Supplemental Height and Bulk Regulations is hereby amended and restated as follows:

185-167 Supplemental Height And Bulk Regulations

- A. Accessory structures. No accessory structure may be built on any lot on which there is no principal building or structure. Unless otherwise regulated in this Part 13, accessory structures shall meet the following conditions:
 1. Accessory structures in residential zones.
 - a. Accessory structures shall not exceed 15 feet in height.



- b. Accessory structures shall meet the front wall and side yard requirements of the principal building. No detached accessory structure shall be located forward of the front wall of the principal structure or building on the lot.
 - c. Accessory structures erected in the rear yard shall be at least three feet from a side or rear property line.
 - d. Accessory structures shall be at least 20 feet from a principal building and at least 10 feet from another accessory building.
 - e. Accessory structures shall not occupy more than 30% of the rear yard area.
 - f. No accessory structure shall be used as a dwelling, except as permitted in Section 185-167.B.
 - g. Decks and patios shall not be permitted in the front yard and shall meet all of the setback requirements for the zone in which they are located. The construction of a deck or patio in one- and two-family zones shall be permitted to increase lot coverage up to 10% of the maximum lot coverage in the zone in which it is located (for example in zones permitting a maximum coverage of 40%, a ten-percent increase would permit an increase in coverage to 44%), subject to compliance with all of the setback requirements of the zone and the installation of dry wells to mitigate the increase in lot coverage above the maximum permitted in the zone. [Added 5-13-2002 by Ord. No. 02-10; amended 10-22-2012 by Ord. No. 2012-18]
2. Accessory structures in all other zones. For the purposes of this Part 13, accessory structures in all other zones shall meet the height and yard requirements for principal buildings. No such accessory building shall be located closer to another building than the height of the shorter building.
- B. Accessory Dwelling Unit.
1. Accessory dwelling units shall not be subject to the same bulk requirements within above Section A of this Ordinance as other accessory structures.
 2. The occupancy and continued use of accessory dwelling units that existed prior to the date of adoption of this ordinance, shall be permitted to be continued. Any modifications or changes to these existing accessory dwelling units shall be subject to all requirements of Section 185-167.B.
 3. The conversion of any existing accessory structures to accommodate a new accessory dwelling unit shall be subject to all requirements of Section 185-167.B., except those requirements of Section 185-167.B.5. Expansions or additions to existing accessory structures shall be subject to all requirements of 185-167.B.
 4. Use Requirements:



- a. Accessory dwelling units shall be permitted on lots that contain detached single-family or two-family dwellings in the RA-50, RA-60, RA-75, RA-100, and RB zones.
 - b. The accessory dwelling unit must be in common ownership with the principal dwelling unit and owner occupied.
 - c. Accessory dwelling units shall not be used for short term rentals (see definition for "short term rental").
 - d. Accessory dwelling units shall not be situated or contained within any basement, cellar, or attic.
5. Bulk Requirements:
- a. Accessory dwelling units shall meet the front, side, and rear yard zoning requirements for a principal building, but not less than 10' for new structures and 7' for existing structures.
 - b. No detached accessory dwelling unit shall be located forward of the front wall of the principal structure or building on the lot.
 - c. Accessory dwelling units shall be setback a minimum of 20 feet from the principal structure or building on the lot.
 - d. Accessory dwelling units shall be setback a minimum of 10 feet from any other accessory structure.
 - e. Accessory dwelling units shall not exceed 25 feet in height.
 - f. Accessory dwelling units shall comply with §185-167.A.1.e of the Ordinance.
6. Maximum Requirements:
- a. There shall be a maximum of one accessory dwelling unit per lot.
 - b. Accessory dwelling units shall be at least 350 square feet but not more than 750 square feet. All accessory dwelling units must have less total square footage than the principal dwelling and shall not have more than two bedrooms.
7. A minimum of one additional off-street parking space per accessory dwelling unit in a location compliant with Ordinance Section 185-XXXI shall be provided for all accessory dwelling units.
8. One additional driveway and curb cut is permitted for the accessory dwelling unit if the following conditions are met:
- a. Property is a corner lot and is compliant with the minimum lot area and lot width requirements of the district the property is located in.
 - b. Driveway is setback a minimum of 10' from any adjacent property, principal structure, or existing driveway.
 - c. Driveway is compliant with all requirements from Ordinance Section 185-XXXI.
 - d. Any shrubs and/or trees removed to accommodate an additional driveway and curb cut shall be subject to the requirements of Chapter 334 – Trees and Shrubbery.



9. Balcony and Deck Requirements:
 - a. Balconies shall have a maximum projection of 4' off the face of the structure.
 - b. Balconies shall only project to the interior of the lot or are setback a minimum of 10' from side or rear property lines.
 - c. Balconies and decks shall only be used in manner that will preserve the neighborhood character. The usage of indoor furniture or storage of personal belongings shall be prohibited on any balcony or deck.
 - d. Decks shall be a maximum of 100 square feet in area.
 10. External stairways associated with an accessory dwelling unit shall be permitted if they comply with the minimum setback and lot coverage requirements of this Ordinance and the district that the property is located in.
 11. Design Requirements:
 - a. The following design requirements are applicable to accessory dwelling units within a newly constructed accessory structure:
 - i. Accessory structures containing an accessory dwelling unit shall utilize complementary exterior materials, including siding, wall finish, doors, windows, and roofing, to the principal building.
 - ii. Accessory structures containing an accessory dwelling unit shall be designed to be complementary in architectural character, including roof pitch, to the principal building.
 - b. When converting an existing detached garage to an accessory dwelling unit, the garage door shall be permitted to remain only if the garage door is complementary to the proposed material and architectural style of the accessory dwelling unit.
 - c. All accessory units shall comply with Property Maintenance Ordinance Sections 237-25 through 237-29.
 - d. All lighting for accessory dwelling units shall be downward facing and dark sky compliant. Flood lights and spotlights shall not be permitted.
 12. Accessory dwelling units on a property including a Designated Local Landmark or located in a Designated Historic District shall be reviewed by the South Orange Historic Preservation Commission under an application for a Certificate of Appropriateness pursuant to Chapter 9, Section 26.
 13. All accessory dwelling units shall comply with the requirements of Chapter 270 – Sewer and Chapter 351 – Water.
 14. All trees and shrubs that are removed for new construction of an accessory dwelling unit shall be replaced on site.
- C. Principal building.
1. Only one principal building may be erected on a lot, except for related buildings under the same ownership, forming one principal use and limited to the following:
 - a. Public or institutional building complexes.



- b. Commercial, office and light industrial complexes.
 - c. Shopping centers.
 - d. Apartment developments.
 - e. Planned developments.
2. Unless otherwise regulated in this Part 13, no principal building shall be located closer to another building than the height of one of the highest buildings, but in no event less than 25 feet.
- D. Projections and encroachments. No part of any building nor any structure attached to a building shall project into any required yard or setback area except as follows:
1. No part of a building shall extend into the side yards as herein required except:
 - a. Steps and ramps.
 - b. Leaders, window sills, belt courses and similar features projecting not more than six inches.
 - c. Ornamental features not extending to the foundation walls, bay windows, balconies, chimneys, in any case projecting not more than two feet.
 - d. Eaves projecting not more than three feet.
 - e. Window air-conditioning units not more than 18 inches and outside air-conditioning condenser units on the ground not more than four feet.
 2. No part of a building shall extend into the front or rear yards as herein required except:
 - a. Those features permitted to extend into side yards.
 - b. Open porches one story in height or open porticos not more than two stories in height, in either case projecting not more than five feet.
 - c. Emergency exit stairs may extend into a required side or rear yard by not more than four feet.
 - d. Under no circumstances shall any of the foregoing projections extend closer to a property line than 1/2 the required setback distance.
- E. Required area or space. No lot, yard, parking area or other space shall be so reduced in area or dimension as to make said area or dimension less than the minimum required under this Part 13. If already less than the minimum required under this Part 13, said area or dimension shall not be further reduced.
- F. Courts. Except for kitchens and bathrooms which are properly ventilated in accordance with the Building Code, all principal rooms designed or occupied for residential use in all buildings shall have windows opening directly to sunlight and open air, and, if necessary, an inner court shall be provided for that purpose. Such courts shall be open and unobstructed from the ground level to the sky, except for fire escapes, and the minimum width shall be 10 feet, and they shall be open at one end. Completely enclosed inner courts are not permitted unless the ground area of such courts shall exceed 1,000 square feet and proper opening is provided at the ground floor level for ingress and egress.



- G. Fences and walls. No fence, wall, fence-like or wall-like structure of any kind shall be constructed or erected on any lot, except as hereafter provided:
1. No such fence or wall shall be more than six feet in height above the finished grade at the base of such fence or wall, except in business zones when permitted by the Planning Board in accordance with this chapter and in the University Zone where perimeter fences may be of a height of eight feet with a three-foot roll, exclusive of the University Zone perimeter abutting South Orange Avenue and Ward Place. [Amended 1-25-1988 by Ord. No. 88-1]
 2. Barbed wire or makeshift fences are prohibited.
 3. No fence or wall shall be nearer to the street line in front of a building than the setback line of the building on the lot. If there is no building on the lot, the setback requirements for the zone in which the lot is situated shall apply for fences. [Amended 6-12-2000 by Ord. No. 00-10]
 4. Solid fences erected on or adjacent to a boundary line separating a residential use from a business or industrial use shall not be located nearer to the street line than the front wall, nearest to the said street, of any business or commercial building erected on said lot or adjacent lot.
 5. Retaining walls erected or maintained for the support of the finished grade of a lot shall be excepted from the above-mentioned provisions; provided, however, that no such wall shall extend more than 18 inches above the finished grade of that portion of the lot which it supports and, in no case, shall any such wall encroach upon any public street or right-of-way.
 6. All solid fences and picket fences shall be constructed with the finished side facing outward from the property on which it is constructed and toward adjacent properties or the street. For purposes of this section, the "finished side" shall be defined as the side opposite the posts, rails, supporting boards or piers. [Added 5-24-1999 by Ord. No. 99-8]
 7. An ornamental perimeter fence can be erected in business zones to screen parking areas from public streets and municipal parking lots, subject to the approval of the Director of Code Enforcement pursuant to the requirements of § 185-113O. [Added 9-26-2005 by Ord. No. 05-17]
- H. Height exceptions. The height provisions of this Part 13 shall not apply to the erection of building appurtenances such as church spires, cupolas or towers designed exclusively for ornamental purposes and shall not apply to antennas, chimneys, flues, bulkheads, elevator enclosures, water tanks or similar accessory structures occupying an aggregate of 10% or less of the area of the roof on which they are located, and further provided that such structures do not exceed the height limit by more than 10 feet. Nothing in this Part 13 shall prevent the erection above the height limitation of a parapet wall or cornice extending above such height limit not more than three feet. A penthouse shall be subject to the height limitation. [Amended 4-27-1993 by Ord. No. 93-9]
- I. Buildings, walls and porches.



1. The walls of a building include the front wall nearest to and facing the front street line on the lot on which said building has been or is to be erected and the side and rear walls nearest to and facing on the side and rear lot lines, respectively.
 2. Roofed porches and porticos, whether open or enclosed, shall be considered as part of a building when measuring distances from the street line and lot lines. Existing roof porches and porticos may only be enclosed when they comply with all setback or rear yard requirements and all side yard requirements.
- J. Corner lots shall comply with Subsection F(3) with respect to the front yard. On the side yard, fences and walls may be constructed in accordance with the following: [Added 4-27-1993 by Ord. No. 93-9; amended 6-12-2000 by Ord. No. 00-10]
1. A fence may run parallel to any other contiguous street from the front setback line of the building on the lot to the end of the property.
 2. The fence shall not be constructed in the municipal right-of-way.
 3. The fence shall be at least one foot from the sidewalk.
 4. No solid fence may be constructed. All fences shall be semitransparent (e.g., 1 x 2 wood screen contemporary picket or wrought iron) or transparent (e.g., hedge or split rail).
 5. No fence shall exceed 42 inches in height.
 6. Property owners are requested but not required to buffer the fences with shrubs or flowers on the street side. Such buffer shall not impede pedestrians walking on the sidewalk.
 7. In those cases where a property owner on a side lot has a fence on the front and side of the property, the fence on the front and side shall be identical in composition and height.
 8. If an issue arises as to what constitutes the front or side of a corner lot, a determination shall be made by the Zoning Officer, who shall take into consideration appropriate factors, including but not limited to the following: any definitions contained in § 185-3; where the front door of the house is located; whether the property is on a main street or side street; whether there are other houses fronting on the street; and the post office address for the property. Any appeal from the Zoning Officer's decision shall be made to the Board of Adjustment, which may only overturn the decision of the Zoning Officer if it finds that there is no basis for the decision made by the Zoning Officer.

SECTION 3.

Village Code Section 185, Attachment 2 - District Bulk Regulations, Residence A Single-Family: All Districts, Permitted Accessory Uses is hereby amended and restated as follows:



1. Off-street parking.
2. Signs.
3. Accessory buildings and structures normally incident and subordinate to the principal use, including private garages, storage sheds, private swimming pools and similar utility or recreational buildings and structures.
4. Greenhouses not operated for profit, provided that there is no display of product other than in growth and further provided that there is no power plant and that any heating plant is at least 200 feet from any lot line.
5. Industrial feeding establishments and private, public and nonprofit organizations, institutions and groups preparing, storing or serving food.
6. Home-based businesses.
7. Residential Recreation Structures

SECTION 4.

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5.

This ordinance shall take effect after referral to the Planning Board pursuant to N.J.S.A. 40:55D-64, notice and a hearing pursuant to N.J.S.A. 40-55D-62.1, and upon final passage and publication as required by law. The Village Clerk shall provide any and all notifications mandated by the Municipal Land Use Law, N.J.S.A. 40:49-2.1 and N.J.S.A. 40A:55-1 et seq.

SECTION 6.

On passage this ordinance shall be codified.

Introduction – First Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown						X
Coallier						X
Haskins		X	X			
Hartshorn Hilton			X			
Jones			X			
Schnall	X		X			



CERTIFICATION

I, Ojetti E. Davis, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Board of Trustees at their meeting held on November 14, 2022.

Ojetti E. Davis
Village Clerk

Adoption – Second Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Brown						
Coallier						
Haskins						
Hartshorn Hilton						
Jones						
Schnall						

CERTIFICATION

I, Ojetti E. Davis, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading by the Board of Trustees at their meeting held on December 12, 2022.

Ojetti E. Davis
Village Clerk

Adopted:

Attest:

Sheena C. Collum

Ojetti E. Davis