

ORDINANCE NO. 23-16
INTRODUCTION DATE: 10-18-2023
ADOPTION DATE: 12-06-2023

AN ORDINANCE AMENDING CHAPTER 35 (LAND USE AND DEVELOPMENT REGULATIONS), ARTICLE 11 (DESIGN AND PERFORMANCE STANDARDS AND CONSTRUCTION SPECIFICATIONS), SECTION 35-11-25 (TREE PRESERVATION) AND SECTION 35-11-32 (TREE CLEARING) OF THE REVISED ORDINANCES OF THE TOWNSHIP OF MILLSTONE, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY

BE IT ORDAINED by the Township Committee of the Township of Millstone, County of Monmouth, State of New Jersey, as follows:

I

Chapter 35 (Land Use and Development Regulations), Article 11 (Design and Performance Standards and Construction Specifications), Section 35-11-25 (Tree Preservation) is hereby deleted in its entirety and replaced with the following:

Section 35-11-25. TREE REMOVAL.

Section 35-11-25.1. Intent and Purpose.

Millstone Township desires to protect and preserve the scenic beauty and natural environment of the Township; prevent erosion of topsoil and sedimentation in waterways; ensure quality development; provide shade and wildlife habitat; reduce pollution; sequester carbon; reduce light pollution, and decrease noise. The primary intent of this ordinance is to ensure that there will be a significant population of healthy trees within the Township. This ordinance establishes permitting policies and procedures for removal and protection of trees, defines heritage trees and specifies penalties for violation.

Section 35-11-25.2. Definitions.

DIAMETER AT BREAST HEIGHT (DBH) – The diameter in inches of a tree measured at 4¹/₂ feet above the existing grade on the uphill side.

DRIPLINE – An imaginary, perpendicular line that extends downward from the outermost tips of the tree branches to the ground.

FARM – A property that meets the requirements defined within and is protected by the Right to Farm Act per N.J.S.A. 4:1C-1 et seq.

FOREST MANAGEMENT PLAN – A plan, prepared by a Forester approved by the State of New Jersey or other professional Forester recognized by the Society of American Foresters, and under the supervision of the State Forester, which details the management practices proposed to be employed on a site, including but not limited to harvesting, woodland management, or land clearing and reforestation.

HERITAGE TREE – Any tree by reason of its diameter, measured at 4.5 feet above the ground on the uphill side (DBH) to be a mature tree of significant size. The Township shall maintain the Standards for Determining Heritage Trees, for individual tree species. These standards shall set forth the size requirement for determining a heritage tree. A copy of the Standards shall also be provided on the Township website.

HISTORIC TREE – A tree which has been found by a professional forester, horticulturist or other professional tree expert to be of notable historic interest to the Township because of age, size or historic association and has been designated and officially proclaimed as part of the official records of the Township, county or state.

NEW JERSEY LICENSED TREE EXPERT – An individual who is recognized by the State of New Jersey as a New Jersey Licensed Tree Expert in good standing.

PRODUCTION AREA – The area of the farm, not including the area occupied by equine – related infrastructure, that is in or available for agricultural production and falls within the land use classes “cropland harvested,” “cropland pastured,” “permanent pastured,” “non-appurtenant woodland,” or “appurtenant woodland” as established by the State Farmland Evaluation Advisory Committee and defined in N.J.A.C. 2:76-2B.3, not including freshwater wetlands that have not been modified for agriculture.

PROFESSIONAL FORESTER – A graduate of a university or college accredited or affiliated by the Society of American Foresters with a degree in forestry or forest management.

RESTRICTED AREA – An area which contains one of the following restrictions:

- A. Steep slopes as defined within § 35-11-24 of this chapter. Unless otherwise provided on a survey prepared by a licensed land surveyor, the Township's review of slopes will be based on the Monmouth County Geographical Information System (GIS) topography database.
- B. Freshwater Wetlands and Associated Buffers. Freshwater wetlands and buffers are governed by the New Jersey Department of Environmental Protection (NJDEP). If the applicant has previously obtained a Letter of Interpretation (LOI), a copy of the LOI and approved NJDEP plan shall be submitted with the Tree Removal Permit Application. If no LOI has been issued for the subject property, the Township's review will be based on the NJDEP GIS freshwater wetland database. If the proposed removal appears to be in the vicinity of wetlands, an LOI may be required prior to approval.
- C. Threatened/Endangered Species Habitat as defined within §35-11-33 of this chapter. The Township's review of threatened and/or endangered species will be based on the NJDEP GIS Landscape Project database.

- D. Conservation Easements or Other Deed Restricted Easements. Properties with a conservation easement that have not been marked with easement monuments will be required to install monuments in accordance with § 35-11-13.3 of this chapter.
- E. Riparian Zone. The land and vegetation within 150 feet from all surface water bodies, unless a greater buffer is imposed by the NJDEP for a special area, such as a Category 1 (C1) stream. Surface water bodies include, but are not limited to lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown on the New Jersey Department of Environmental Protection's GIS hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys. There is no riparian zone along the Atlantic Ocean nor along any man- made lagoon or oceanfront barrier island, spit or peninsula.
- F. Pending Board Approval. If the subject property is currently being reviewed by the Planning Board or Board of Adjustment, clearing is prohibited until all conditions of the Board resolution approval have been satisfied.

TOWNSHIP TREE ESCROW FUND - A fund established by the governing body for the administration and promotion of tree and shrubbery resource sustainability projects and practices.

TREE - Any deciduous or coniferous species which has a DBH of six inches or greater.

TREE PRESERVATION AND REMOVAL PLAN - A specific plan that contains tree locations and other information in accordance with Section 5 herein.

TREE REPLACEMENT PLAN – A specific plan that shows the location of proposed replacement trees in accordance with Section 6 herein.

Section 35-11-25.3. Applicability.

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

- A. It shall be unlawful for any person to remove or cause to remove any tree with a DBH of six inches or greater without first having obtained a tree removal permit as provided herein.
- B. Any tree located greater than 50 feet from the foundation of an existing residential dwelling, greater than 10 feet from the foundation of an accessory structure located on an existing residential property or greater than 50 feet from the foundation of an existing commercial building with the exception of the roadway, driveway and/or septic system will require replacement per Township of Millstone Code Section 35-11-25.10. There is no 10-foot allowance for accessory structures for commercial property or new development.
- C. New Residential Development.

1. New residential development consisting of less than five (5) dwellings: Any tree located greater than 50 feet from the foundation of an approved residential dwelling with the exception of the existing roadway, driveway and/or septic system will require replacement per Township of Millstone Code Section 35-11-25.10.
 2. New residential development consisting of five (5) or more dwellings: Any tree located greater than 50 feet from the foundation of approved residential dwellings with the exception of roadways, driveways and/or septic systems will require replacement per Township of Millstone Code Section 35-11-25.10.
- D. New Commercial Development - Any tree located greater than 50 feet from the foundation of a Board approved commercial building with the exception of the roadway, driveway, and/or septic system will require replacement per Township of Millstone Code Section 35-11-25.10.
- E. Heritage and Historic Trees should only be removed in the most compelling and extraordinary circumstances. Removals may be permitted only after a thorough investigation and written report of findings with recommendations by a New Jersey board-licensed tree expert or approved forester and the approval of the Township Shade Tree Commission. The loss of lot yield, building area or profitability of development layout shall be deemed neither compelling nor extraordinary.
- F. Tree removal and brush clearing shall not be permitted within restricted areas as defined within Township of Millstone Code Section 35-11-25.2, with the exception of a tree imposing a great risk to public safety or property.

Section 35-11-25.4. Tree Removal Permit Application.

- A. Any person proposing to remove a tree shall make application to the Township by filing a written Tree Removal Permit Application with the Township Land Use Department and paying such fees as are set forth in Township of Millstone Code Sections 35-11-25.9 and 35-11-25.10.
- B. Two copies of a Tree Preservation and Removal Plan shall be included with the application in accordance with Township of Millstone Code Section 35-11-25.5.
- C. Any person proposing to remove trees greater than 50 feet from the foundation of an existing residential dwelling, greater than 10 feet from the foundation of an accessory structure located on an existing residential property or greater than 50 feet from the foundation of a commercial building shall provide two copies of a Tree Replacement Plan in accordance with Township of Millstone Code Section 35-11-25.6.
- D. Any applicant of a proposed residential dwelling, seeking to remove trees located greater than 50 feet from the foundation of the dwelling or beyond the limits of the roadway, driveway and/or septic system shall provide two copies of a Tree Replacement Plan in accordance with Township of Millstone Code Section 35-11-25.6.

- E. Any application, residential or commercial, that requires Planning Board or Zoning Board approval, proposing removal of trees located greater than 50 feet from the foundation of the residential dwelling or commercial building or beyond the limits of the roadway, driveway and/or septic system, as applicable per Township of Millstone Code Section 35-11-25.3(c), shall provide two copies of a Tree Replacement Plan or Landscape Plan in accordance with both Township of Millstone Code Sections 35-11-25.6 and 35-11-25.10 and Chapter 35-11-14 of the Municipal Code.
- F. Tree removal permit applications shall be filed at the Township Land Use Department and shall be completed in full. The application must be deemed complete and all required fees, as set forth in Township of Millstone Code Sections 35-11-25.9 and 35-11-25.10, be paid prior to review.
- G. 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.
- H. No permit shall be issued until a Tree Removal Permit Application, Tree Preservation and Removal Plan and Tree Replacement Plan, if applicable, for the lot or parcel has been reviewed and approved as compliant with this chapter, by filing of a written report, by the Township Zoning Officer.
- I. Inspections. After the application is complete and reviewed, the Township Zoning Officer, or his/her designee, shall inspect the trees and property which are the subject of the permit application within 30 days. Prior to inspection, the applicant shall mark all individual trees to be removed with flagging. No trees shall be marked with paint or in any other permanent manner in case of denial.
- J. Permit approval or denial. The Township Zoning Officer shall approve or deny the tree removal permit within 10 business days after completion of the inspection. The Zoning Officer shall notify the applicant in writing of the factual basis and criteria for any denial. The final decision of the Zoning Officer may be appealed to the governing body by filing written notice within 10 days of the final decision. The governing body shall hold a public hearing and issue its decision within 60 days after notice of appeal is filed, unless the applicant requests and the governing body consents to an extension of time. In the event that the governing body requires professional guidance to make a determination, it shall be at the expense of the applicant. The governing body may delegate its appeal responsibilities to the Shade Tree Commission.
- K. Heritage/Historic Tree Removal Permit approval or denial. The Shade Tree Commission shall review the Tree Removal Application and written report, prepared by a New Jersey Licensed Tree Expert or Professional Forester, for removal of any Heritage or Historic tree within 45 days of receipt of the application. Review may include inspection of the tree by Commission members and/or the Zoning Officer. The Shade Tree Commission shall submit written recommendation of approval or denial to the Zoning Officer within 10 days of inspection. The Zoning Officer shall notify the applicant in writing of the factual basis and criteria for any denial. Denial of permit may be appealed to the governing body by filing written notice within 10 days of the final decision. The governing body shall hold a public

hearing and issue its decision within 60 days after notice of appeal is filed, unless the applicant requests and the governing body consents to an extension of time.

Section 35-11-25.5. Tree Preservation and Removal Plan.

Two copies of a Tree Preservation and Removal Plan shall be submitted to the Township Land Use Department with the Tree Removal Permit Application. Applications that require Planning Board or Zoning Board approval shall have a Tree Preservation and Removal Plan as part of the submittal to the Board and to the Township Shade Tree Commission for review and approval in accordance with this chapter. Tree Preservation and Removal Plans shall contain the following:

- A. A survey showing the current condition of the property, identifying the following:
 - 1. Building location.
 - 2. Location of all trees proposed for removal with a corresponding list including tree species, DBH and condition. For removal of five trees or less on existing residential development, tree locations may be hand drawn on the survey. For new residential or commercial development, all trees with a DBH of 6” or greater, within the limit of disturbance, shall be located on a survey, including tree species, DBH and condition.
 - 3. Accessory structures and uses including but not limited to sheds, pool, barn, tennis/basketball court, etc.
 - 4. Location of any Heritage or Historic trees, if applicable.
 - 5. Delineated wetland line, if applicable.
 - 6. Easements, if applicable.
 - 7. Wooded areas.
- B. Proposed tree preservation limits and protective fencing location to be installed a minimum of 10’ beyond the dripline of trees to be saved during removals. Tree protection fencing shall be installed prior to removals and removed after work has been completed.
- C. New Residential or Commercial Development – Location of the proposed building foundation, driveway, septic area and roadway. Tree protection fencing location, notations and details shall be shown on the Grading Plan. Tree protection fencing notation shall state that “All existing trees and shrubs to be preserved on site shall be protected against construction damage by tree protection fencing, installed prior to any site disturbance and remaining in good condition throughout all phases of construction. All fencing shall be placed a minimum of 10 feet outside the dripline of the individual trees to be preserved.”

Section 35-11-25.6. Tree Replacement Plan.

Existing Development:

Two copies of a Tree Replacement Plan shall be submitted to the Township Land Use Department with the Tree Removal Permit Application and Tree Preservation and Removal Plan if the applicant proposes to remove trees located greater than 50 feet from the foundation of an existing residential dwelling, greater than 10 feet from the foundation of an accessory structure located on an existing residential property or greater than 50 feet from the foundation of a commercial building.

New Development:

Two copies of a Tree Replacement Plan shall be submitted to the Township Land Use Department with the Tree Removal Permit Application and Tree Preservation and Removal Plan if the applicant proposes to remove trees located greater than 50 feet from the foundation of a proposed residential dwelling or beyond the limits of the roadway, driveway and/or septic system.

Two copies of a Tree Replacement Plan or Landscape Plan in accordance with both Sections 6 and 10 below and Chapter 35-11-14 of the Municipal Code shall be submitted to the Planning Board/Board of Adjustment Secretary with the Tree Removal Permit Application and Tree Preservation and Removal Plan for any application, residential or commercial, that requires Planning Board or Zoning Board approval, proposing removal of trees located greater than 50 feet from the foundation of the residential dwelling or commercial building or beyond the limits of the roadway, driveway, and/or septic system as applicable per Township of Millstone Code Section 35-11-25.3(c).

The Tree Replacement Plan shall contain the following:

Two copies of a survey showing the current condition of the property, identifying the following:

- A. Building location.
- B. Proposed location of replacement trees in accordance with Township of Millstone Code Section 35-11-25.10 with a corresponding list including tree species and caliper.
- C. Accessory structures and uses including but not limited to sheds, pool, barn, tennis/basketball court, etc.
- D. Wooded areas
- E. Location of any Heritage or Historic trees, if applicable.
- F. Delineated wetland line, if applicable.
- G. Easements, if applicable.

H. New Residential or Commercial Development – Location of the proposed building foundation, driveway, septic area and roadway.

Section 35-11-25.7. Criterial For Issuance of Permit.

A. Upon completion of the Township Zoning Officer’s field inspection report and review of any requested recommendations, the Zoning Officer shall approve a permit if:

1. The Tree Removal Permit Application is compliant with Township of Millstone Code Section 35-11-25.4;
2. The Tree Preservation and Removal Plan is compliant with Township of Millstone Code Section 35-11-25.5;
3. The Tree Replacement Plan is compliant with Township of Millstone Code Sections 35-11-25.6 and 35-11-25.10;
4. None of the conditions set forth below in Subsection B exists;

B. The Zoning Officer may deny a Tree Removal Permit for the following reasons:

1. The tree is located in a restricted area as defined within this chapter.
2. The tree is a heritage or historic tree in sound condition.
3. The removal of the tree will contribute to extra runoff or surface water onto adjacent properties.
4. The removal of the tree will contribute to erosion or silting of adjacent properties

Section 35-11-25.8. Term of Permit.

Any and all permits approved by the Township shall be declared null and void if the tree removal is not completed within 12 months after permit issuance. Permits not used within the 12-month period will require a new application and the payment of new fees. For purposes of this section, a permit shall no longer be valid when the work authorized by the permit is completed.

Section 35-11-25.9. Fees.

A. The applicant shall pay an application fee at the time of filing the application, with the Township Land Use Department. For residential properties the application fee is fifty (\$50.00) dollars. For commercial or other non-residential properties the application fee is one hundred fifty (\$150.00) dollars. No application shall be considered without payment of the required application fee unless exempt under Township of Millstone Code Section 35-11-25.11.

B. Replacement fee(s) will be in accordance with Township of Millstone Code Section 35-11-25.10. Replacement fees shall be deposited into the Township Tree Escrow Fund. The Township Tree Escrow Fund shall be authorized and maintained by the Chief Financial Officer of Millstone Township to receive and disburse replacement tree contributions. Appropriations from the Tree Fund shall be authorized by the governing body with the consideration of the Shade Tree Commission recommendation in accordance with the municipal tree planting plan and the Township Community Forestry Management Plan.

The primary purpose of this fund is to provide planting and maintenance of trees and shrubs on public property. The fund will also 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. Administrative costs imposed in accordance with this chapter shall not exceed 30% of the fund, as determined on an annual basis.

Section 35-11-25.10. Replacement Trees/Fees.

A. Tree replacement requirements.

1. Any tree removed pursuant to this chapter, unless exempt under Township of Millstone Code Section 35-11-25.11, shall be replaced based on the following tree replacement schedule:

| Size of Tree to be Removed DBH | Number of Replacement Trees Required | Size of Replacement Tree Deciduous – Caliper Evergreen - Height | Or |
|-----------------------------------|--------------------------------------|---|-------------------------------|
| | | | Replacement Fee Dollar Amount |
| 6” up to 10” | 1 | 2-2 1/2” deciduous or 5-6’ evergreen tree | \$240.00 |
| Greater than 10” up to 16” | 2 | 2-2 1/2” deciduous or 5-6’ evergreen tree | \$420.00 |
| Greater than 16” up to 22” | 2 | 3-3 1/2” deciduous or 7-8’ evergreen tree | \$840.00 |
| Greater than 22” up to 30” | 4 | 3 1/2-4” deciduous or 8-10’ evergreen tree | \$1,680.00 |
| Greater than 30” | 5 | 3 1/2-4” deciduous or 8-10’ evergreen tree | \$2,100.00 |

2. In cases where the applicant chooses not to install the required number of replacement trees, the replacement fee will be required. A combination of both replacement trees and replacement fees may be utilized. Replacement Tree fees shall be made out to the “Millstone Township Tree Fund.”

3. For replacement tree suggestions, refer to the “Millstone Township Recommended Tree Planting List” available on the Township website. Use of native species is encouraged.

B. Replacement Planting and Inspection.

1. Replacement Trees shall be planted during the following fall and spring planting seasons:

| | |
|---|---|
| <i>September 15th to December 30th</i> | <i>Evergreen Trees</i> |
| <i>October 15th to December 30th</i> | <i>Deciduous trees with no fall dig hazard.</i> |
| <i>March 1st to May 30th</i> | <i>All trees</i> |

2. The applicant shall contact the Township Zoning Officer for inspection of replacement trees within 30 days of installation. Planting Specifications/Details will be provided by the Township to ensure proper planting techniques are utilized. The Zoning Officer, or his/her designee will inspect installed landscaping within 60 days from contact. If the Zoning Officer approves the tree planting, the Tree Removal Permit shall be closed. Failure to comply with required plantings or replacement fees will result in Fines set forth within Township of Millstone Code Section 35-11-25.15.

Section 35-11-25.11. Exceptions.

A. The following exceptions from the Tree Removal Ordinance shall apply:

1. a. Farms are exempt from the permitting process of this Tree Removal Ordinance in the following circumstances by signing a one-time *Tree Removal Certification For Farms*:
 - i. Clearing that increases the farm's production area.
 - ii. Maintaining the existing, established agricultural modified wetlands.
- b. Farms are required to comply with the Tree Removal Ordinance only if:
 - i. Proposing clearing of new areas of the farm that are in proximity of the following: steep slopes; freshwater wetlands or buffers; riparian zone; deed restricted easements which specifically prohibit clearing of trees; and/or property pending Board approval. (fee exempt)
 - ii. Proposed clearing for residential or personal development of the farm.
2. Tree removal that is specifically included within a NJDEP approved Forest Management Plan. The plan must be provided to the Township for review prior to removal. New Forest Management Plans should be written to protect restricted areas as detailed within Section 2 of this ordinance.

B. The following exceptions from Tree Replacement requirements shall apply:

1. Any tree that is not a Heritage or Historic Tree located within 50 feet of the foundation of an existing residential dwelling, within 10 feet from the foundation of an accessory structure located on an existing residential property or within 50

feet from the foundation of an existing commercial building with the exception of the roadway, driveway, and/or septic system.

2. New Residential Development – Any tree that is not a Heritage or Historic Tree located within 50 feet of an approved residential dwelling or in the location of the roadway, driveway and/or septic system as applicable per Township of Millstone Code Section 35-11-25.3(c).
3. New Commercial Development – Any tree that is not a Heritage or Historic Tree located within 50 feet of a Board approved commercial building or in the location of the roadway, driveway, and/or septic system.
4. The tree is dead, diseased, hazardous or damaged by storm or accident as verified by the Township Zoning Officer or his/her designee. The Township Zoning Officer may require verification by a New Jersey Licensed Tree Expert or Professional Forester at the applicant's expense. If the tree condition is verified as described, the Tree Removal Application fee shall be waived for an existing residential property.
5. Any tree growing in a utility right-of-way subject to notification of the Township. The Tree Removal Application fee shall be waived for the utility company.
6. The tree poses imminent danger to public safety and should be removed immediately. In the case of imminent danger, photographs shall be taken prior to removal and submitted to the Township Zoning Officer within one week of removal.

Section 35-11-25.12. Other Prohibited Acts.

The following actions are prohibited and shall be a violation of this article:

- A. Willful injury or disfigurement of any tree growing within the Township.
- B. No person shall:
 1. Attach any sign, notice or other object to any tree or fasten any wires, cables, nails or screws to any tree on public property or within a public right-of-way in a manner that could prove harmful to the tree. "No Trespassing" and "No Hunting Signs" may be waived from this restriction if an appropriate alternative is unavailable.
 2. Pour any material on any tree or on nearby ground which would be harmful to the tree.
 3. Cause or encourage any unnecessary fire or burning near or around any tree.

4. Construct a concrete, asphalt or brick sidewalk or otherwise fill up the ground within 15 feet of any tree for new development or 7 feet of any tree for existing development so as to cut off air, light or water from the roots.
5. Place building material or equipment within 10' of the dripline of any tree.
6. Alter the existing grade by removing or adding greater than 1" of any soil within 15 feet of the tree trunk for new development and 7 feet of the tree trunk for existing development.
7. Change the existing drainage patterns (contour lines) around the perimeter of a tree's dripline, which causes the movement of siltation or water into the dripline of the tree canopy.
8. Remove bark from a living tree.

Section 35-11-25.13. Enforcement.

A summons alleging a violation of this section may be issued by the Millstone Township Code Enforcement Officer or by any law enforcement officer. Alternatively, any individual may file a complaint with the Millstone Township Municipal Court, which shall issue a summons in accordance with the New Jersey Rules of Court.

Section 35-11-25.14. Non-Liability of Township.

Nothing in this article shall be deemed to impose any liability upon the Township or upon any of its officers or employees nor to relieve the owner and occupant of any private property from the duty to keep trees and shrubs upon private property or under his/her control in a safe condition.

Section 35-11-25.15. Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this article, including those listed in Prohibited Acts, shall be subject to comply with the replacement requirements of this Section and be subject to the penalties set forth in Chapter 1, Section 1-5, of this code. Each tree removed, damaged or destroyed in violation of this Section will constitute a separate offense and shall be punishable as such. In the event that a tree(s) has been removed, including stump(s), without a valid Tree Removal Permit, an estimate based on a representative sample of trees in an adjacent area, selected at the discretion of the Township Zoning Officer, shall be utilized to determine the fine.

II

Chapter 35 (Land Use and Development Regulations), Article 11 (Design and Performance Standards and Construction Specifications), Section 35-11-32 (Tree Clearing) is hereby deleted in its entirety.

III

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

IV

If any section, subparagraph, sentence, clause or phrase of this Ordinance shall be held to be invalid, such decision shall not invalidate the remaining portion of this Ordinance.

V

This Ordinance shall take effect upon adoption and publication according to law.

EXPLANATORY STATEMENT: This Ordinance deletes Chapter 35, Article 11, Section 35-11-25 (Tree Preservation) in its entirety and replaces it with new Section 35-11-25 (Tree Removal). The Ordinance further deletes Section 35-11-32 (Tree Clearing) in its entirety.