

**CITY OF FAIRWAY, KANSAS
ORDINANCE NO. 1721**

**AN ORDINANCE AMENDING THE FAIRWAY CITY CODE
PERTAINING TO TREE REMOVAL; AMENDING AND REPEALING
EXISTING SECTION 11-94 OF THE FAIRWAY CITY CODE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FAIRWAY,
KANSAS:**

SECTION 1. Existing Section 11-94 of the Fairway City Code is hereby amended to read as follows:

Sec. 11-94. – Tree removal.

- (a) *Authorization.* No person, directly or indirectly, shall cut down, destroy, move or remove, or effectively destroy, any protected tree or feature tree located on covered property without first obtaining tree removal authorization. Generally, if a tree removal authorization is granted, the applicant shall replace the protected trees being removed with replacement trees. A sufficient number of replacement trees shall be planted so that the total caliper of the replacement trees is equal to the caliper of the tree removed as measured at DBH. If, for whatever reason, planting replacement trees is deemed infeasible, the owner shall make payment to the Fairway Tree Fund.
- (b) *Process.* Owners must request tree removal authorization in writing to the Community Tree Manager. If the removal is in conjunction with a construction project, the written request must be submitted at the same time as the building permit application.
- (c) *Authority to review; approval.* The Community Tree Manager shall be responsible for the review and approval of all requests for tree removal authorizations submitted in accordance with the requirements specified in this article. Upon receipt of a completed application, the Community Tree Manager may take one (1) of the following actions:
 - (1) *Deferral of decision.* The Community Tree Manager may defer the approval of a tree removal authorization to the Tree Board for any reason. Any decision made by the Tree Board may be appealed to the City Council. All decisions made by the City Council shall be final.
 - (2) *Approval.* The Community Tree Manager shall issue tree removal authorization provided the owner has agreed in writing to either meet the tree replacement criteria or make payment to the Fairway Tree Fund.
- (d) *Authorization expiration.* Tree removal authorization issued in connection with an approved building permit or site plan shall be valid for the period of that building permit's or site plan's validity. A tree removal authorization not issued in connection

with an approved building permit or site plan shall become void after one hundred and eighty (180) days after the date of approval.

- (e) *Authorization for removal of a feature tree by owner.* A feature tree may be removed by an owner with approval from the City Council provided that the burden is upon the owner to show that the following criteria have been met:
 - (1) Removal of the feature tree is necessary for construction, development, or redevelopment;
 - (2) All reasonable efforts have been made to avoid removing the feature tree for construction/development and removal cannot be avoided;
 - (3) The presence of the feature tree places undue financial burden on the applicant; and
 - (4) No other reasonable accommodations can be made to preserve the feature tree.
- (f) *Authorization for removal of a feature tree by the city.* A feature tree may be removed by the city at any time if the Community Tree Manager determines that one (1) of the following conditions exists:
 - (1) The feature tree is dead, dying, diseased and/or in decline and constitutes a threat to healthy trees, property, or public safety, as determined by a certified arborist; o
 - (2) The feature tree was previously scheduled to be removed as a part of a city project that has been approved by the City Council.

SECTION 2. Existing Section 11-94 of the Fairway City Code is hereby repealed.

SECTION 3. This Ordinance No. 1721 shall become effective upon adoption and publication in the official City newspaper.

[Remainder of page intentionally left blank; signatures follow.]

PASSED by the City Council the 12th day of October, 2020. **APPROVED** by the Mayor.

Melanie Hepperly, Mayor

ATTEST:

Kim Young, City Clerk

APPROVED AS TO FORM:



Anna M. Krstulic, City Attorney