

**CITY OF FAIRWAY, KANSAS
ORDINANCE NO. 1702**

**AN ORDINANCE AMENDING THE FAIRWAY DEVELOPMENT
ORDINANCES PERTAINING TO SIGN REGULATIONS; AMENDING
AND REPEALING EXISTING SECTIONS 15-548 THROUGH 15-559 OF
THE CODE OF ORDINANCES, CITY OF FAIRWAY, KANSAS.**

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

SECTION 1. That existing Sections 15-548 through 15-559 of Article IV, Division 3, Subdivision IV of the Fairway Development Ordinances entitled "Signs" be amended to read as follows:

Subdivision IV. – Signs

Sec. 15-548. - General Provisions.

- (a) *Title.* This Subdivision shall be known as the Sign Regulations of the City of Fairway, Kansas, and may be referred to herein as the "Sign Regulations".
- (b) *Findings, Purpose and Intent; Interpretation.* Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of the Sign Regulations is to regulate the size, color, illumination, movement, materials, location, height and conditions of all Signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic investment. The Sign Regulations allow adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all Signs. The Sign Regulations must be interpreted in a manner consistent with the First Amendment guarantee of free speech. The Sign Regulations are based on the following legislative intent and findings:
 - (1) A Sign placed on land or on a building for the purpose of identification, protection or directing persons to a use conducted therein must be deemed to be an integral but accessory and subordinate part of the principal use of the land or building. Therefore, the intent of the Sign Regulations is to establish limitations on Signs to ensure that they are appropriate to the land, building or use to which they are appurtenant and are adequate for the intended purpose, while balancing the individual and community interests identified above.
 - (2) The Sign Regulations are intended to promote Signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they

pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

- (3) The Sign Regulations do not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the City. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth in this Section 15-548(b).
- (4) The Sign Regulations do not entirely eliminate all of the harms that may be created by the installation and display of Signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display, while still reducing and mitigating the extent of the harms caused by Signs.
- (5) The Sign Regulations are not intended to and do not apply to Signs erected, maintained or otherwise posted, owned or leased by the federal government, the State of Kansas, Johnson County, Kansas or the City. The inclusion of "government" in describing some Signs does not intend to subject the government to regulation, but instead helps illustrate the type of Signs that falls within the immunities of the government from regulation.
- (6) The City is a unique asset within northeast Johnson County that attracts people and families to a peaceful quality of life within the context of a larger metropolitan area. Parks, natural areas and tree canopy throughout the City contribute to its charm and character. The City is primarily residential with minimal commercial development. Subsequent generations preserved the character of the City through the adoption of the City's Comprehensive Plan and stringent zoning regulations. In this way, the sense of an enclave away from the surrounding urban metropolis is preserved.
- (7) Many Signs are intended to be temporary in nature, and so do not meet the regular structural and installation requirements necessary to prevent them from being affected by weather and other natural forces and present a potential hazard to persons and property. Severe weather conditions include, but are not limited to, thunderstorms with accompanying high winds, tornadoes, ice accumulation, and flooding, and are characteristic of local weather conditions.
- (8) The primary purpose of Signs unrelated to traffic and placed along a roadway is to attract the attention of drivers and distract them from their primary responsibility of constant attention to traffic and road conditions. This concern is especially acute in this residential community where young children present a significant potential hazard for drivers. Thus, the distraction of Signs is particularly hazardous in the City where drivers must exercise special caution when driving along its roads.
- (9) Signs inherently are out of keeping with their surroundings; they are intended to attract attention. Their purpose fails if they meld into the landscape. As such, they are a visual blight especially where the visual clutter of Signs is at odds with the

policy of the City's Comprehensive Plan to make structures blend into the topography and be compatible with their natural surroundings.

- (10) Signs have an adverse effect on the aesthetic quality of a city, and thus risk depreciating property values. This potential adverse effect is particularly acute in the City given the unique and historic character of the City that the City makes a strong effort to enhance through other land use regulations.
- (11) Residents are virtually captive audiences of Signs displayed by neighbors. Signs are an intrusion into residential privacy and interfere with the enjoyment of a resident's property because the vista from the resident's property may become so marred by the clutter of Signs that the resident cannot successfully avoid observing the Sign clutter.

Sec. 15-549. - Definitions.

In addition to the applicable definitions set forth in Section 15-798, certain words and terms used in the Sign Regulations shall be defined as follows:

- (a) *Flag*. A Sign made of fabric, bunting, or similar material, attached along one (1) side to a single pole that is either freestanding or attached to a building.
- (b) *Government Sign*. A Sign that is constructed, placed or maintained by the federal, state or local government, or a Sign that the federal, state or local government requires a property owner to construct, place or maintain either directly or to enforce a property owner's rights, including, but not limited to, traffic control devices, parking control signs, street identification signs, warning signs, legal postings and signs prohibiting or controlling access to property.
- (c) *Holiday Decorations*. Displays erected on a seasonal basis, including but not limited to strings of lights, in observance of religious, national or state holidays that are not intended to be permanent in nature and that contain no commercial message.
- (d) *Monument Sign*. A freestanding Sign consisting of a base and a Sign Face where the width of the base is a minimum of one-half (1/2) the width of the widest part of the Sign Face.
- (e) *Sign*. A name, identification, description, display or illustration that is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface which directs attention to or is designed or intended to direct attention to the Sign Face or to an object, product, place, activity, person, institution, organization or business. Each display surface of a Sign or Sign Face must be considered to be a Sign. Provided, however, that the following shall not be considered to be Signs: signs located completely within an enclosed building and not exposed to view from a street, bumper stickers that are no larger than eighteen inches (18") in length and five inches (5") in height, and decorative objects.
- (f) *Sign Area*. The space enclosed within the extreme edges of the Sign for each Sign Face, not including the supporting structure; or where attached directly to a building wall or

surface, the space within the outline enclosing all of the Sign elements. "Sign Area" shall also include cabinets, background panels or colors that are part of the Sign installation and not part of the building architecture or supporting Sign base. Where a Sign consists of more than one Sign Face, "Sign Area" shall be equal to the size of the largest single Sign Face.

- (g) *Sign Face.* The surface of a Sign designed for, designated for or displaying Sign copy, including the outer extremities of the framework or background.
- (h) *Temporary Sign.* A banner, pennant, poster or Sign constructed from nondurable materials, including paper, cloth, canvas, plastic, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the Building Official/Codes Administrator to be displayed for a limited period of time (rather than permanently attached to the ground or a structure).
- (j) *Wall Sign.* A Sign attached to and erected parallel to and within one foot (1') of the face or wall of a building, including signs painted on or projected on the wall of a building. "Wall Sign" shall include signs attached to canopies, awnings, mansard roofs or similar near-vertical architectural elements of a building façade, but which are not part of the building roof. *Window Sign.* A non-illuminated Sign that is placed on the inside of a windowpane and is intended to be viewed from outside the building.
- (k) *Yard Sign.* A non-illuminated Sign constructed of durable materials that is supported by one or more uprights, posts or bases placed upon or affixed in the ground and not attached to any part of the building.

Sec. 15-550. - Sign use table.

The following table is for convenience of reference only, and shall not affect the meaning or interpretation of any other provisions of the Sign Regulations. When a conflict occurs, the other provision shall control.

Sign Type	Zoning District				
	R-1 Single-Family Residential	R-2P-Planned Residential*	B-1 Neighborhood Business	B-2 Office District	B-3P Planned Business Mixed-Use District*
Address Signs	R	R	R	R	R
Flags	A	A	PC	PC	PC
Government Signs	A	A	A	A	A
Holiday Decorations	A	A	A	A	A
Monument Signs	GB	GB	GB	GB	GB

Temporary Signs	A	A	A	A	A
Wall Signs	GB	GB	GB	GB	GB
Window Signs	A	A	A	A	A
Yard Signs	A	A	PC	PC	PC

R = Required

A = Allowed (with possible restrictions or conditions)

P = Requires permit by Building Official/Codes Administrator

PC = Requires permit by Planning Commission

GB = Requires permit by Governing Body upon Planning Commission recommendation

Sec. 15-551. – Regulations Applicable to All Districts.

(a) *Generally.* No Sign may be constructed, permitted or displayed in any district within the City, except as expressly provided for by the Sign Regulations or other applicable City ordinance. The following Signs are allowed in all districts:

(1) *Address Signs.* All primary buildings shall have a permanent property address sign placed in a position to be plainly legible and visible from the street fronting the property. Multi-tenant buildings with separate tenant entrances shall have a permanent address sign by each entrance. These address signs shall contain the address number, and may contain the street name. Residential address signs shall have a minimum height of four inches (4"), with a maximum area of two square feet (2 sq. ft.). Nonresidential address signs shall have a minimum height of five inches (5"), with a maximum area of three square feet (3 sq. ft.).

(2) *Government Signs.* Government Signs are exempt from the Sign Regulations except for the provisions set forth in this Section 15-551(a)(2). Government Signs that form the expression of that government are allowed in every district and include the Signs described and/or required in this Section 15-551(a)(2)a.-c. when erected and maintained pursuant to law. The Government Signs described in this Section 15-551(a)(2) are an important component of measures necessary to protect the public safety and serve the compelling governmental interest of protecting the public and traffic safety, complying with legal requirements, serving the requirements of emergency response and protecting property rights or the rights of persons on property.

a. Traffic control devices on public or private property must be erected and maintained so as to comply with the Manual on Uniform Traffic Control Devices adopted by the Kansas Secretary of Transportation pursuant to K.S.A. 8-2003, and amendments thereto. Because the Sign Regulations do not apply to the federal, state or local governments, a failure to comply with this provision by those governments does not constitute evidence of negligence or form the basis for a cause of action.

- b. Where a federal, state or local law requires a property owner to post a Sign on the owner's property to warn of a danger, to restrict access to the property either generally or specifically, or to advise of the existence of security systems on the property, the owner must comply with the federal, state or local regulation to exercise that authority by posting a Sign on the property. If the federal, state or local regulation describes the form and dimensions of the Sign, the property owner must comply with those requirements. Otherwise, when the form of the dimensions of the warning sign are not defined, and it is located on a building, fence or other structure on the property, the size and location of the warning sign must be proportional to the size of the structure and the distance from the street to the structure, but in no case larger than one square foot (1 sq. ft.). A warning sign may also be installed in a place on the property to provide access to the notice that is required to be made, but in no case shall the Sign be larger than one square foot (1 sq. ft.). Any warning sign larger than one square foot (1 sq. ft.) must be approved and permitted under the same procedure as required for Signs in business districts set forth below in Section 15-552(a)-(b).
 - c. Official notices or advertisements may be posted or displayed by or under the direction of any public or court officer in the performance of official or directed duties. If the federal, state or local regulation describes the form and dimensions of the official notice or advertisement, the property owner must comply with those requirements; otherwise, when not defined, the Sign shall be no larger than twelve square feet (12 sq. ft.) and located in a place on the property to provide access to the notice that is required to be made; provided that all of these Signs must be removed by the property owner no more than ten (10) days after their purpose has been accomplished or as otherwise required by law.
- (3) *Holiday Displays.* Holiday Displays are exempt from the Sign Regulations except for the provisions set forth in this Section 15-551(a)(3). Holiday Displays may be used for decorative purposes in all districts during any nationally recognized holiday period; provided that Holiday Displays shall not exceed seven and one-half (7½) watts, traverse any street right-of-way, or create any traffic problem, congestion or hazard.
- (4) *Temporary Signs.* Temporary Signs are permitted subject to the following restrictions:
- a. Any number of Temporary Signs may be placed on any lot provided that the total Sign Area of the Temporary Signs shall not exceed six square feet (6 sq. ft.). Up to three (3) additional Temporary Signs may be placed on any lot from June 15 through August 15 and from September 15 through November 15.

- b. All Temporary Signs shall have a Sign Area no larger than six square feet (6 sq. ft.) and with a maximum height of four feet (4').
 - c. No Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any type of street furniture, or otherwise create a hazard, including a tripping hazard.
 - d. No Temporary Sign shall be illuminated or painted with light-reflecting paint.
 - e. A Temporary Sign may be posted for so long as it remains in good condition. Once a Temporary Sign is tattered or otherwise no longer in good condition, it shall be removed or replaced. If the Building Official/Codes Administrator determines that a Temporary Sign is not in good condition, the property owner shall be notified of that determination and shall remove or replace the Temporary Sign within three (3) days of the notification. Temporary Signs that are not removed or replaced within three (3) days of the notification shall be subject to abatement in accordance with the provisions of Section 15-172. The Building Official/Codes Administrator's determination that a Temporary Sign is not in good condition may be appealed to the Board of Zoning Appeals in accordance with the provisions of Section 15-777, and amendments thereto. Any appeal to the Board of Zoning Appeals shall stay any abatement proceedings during the time the matter is pending before the Board of Zoning Appeals.
 - f. Upon application (including any applicable fee), the Planning Commission is hereby authorized to issue a permit for a Temporary Sign exceeding the size requirements of this Section 15-551(a)(4); provided that no approved Temporary Sign may exceed sixteen square feet (16 sq. ft.) in Sign Area and six feet (6') in height. When approving any Temporary Sign permit, the Planning Commission may reasonably set any necessary material requirement. Applicants for an extension of an existing permit shall pay a new application fee.
- (5) *Window Signs.* An unlimited number of Window Signs are permitted. The Sign Area of any single Window Sign shall not exceed three square feet (3 sq. ft.).
- (b) *Maintenance Requirements.* All Signs shall be of sound structural quality, be maintained in good repair, have a clean and neat appearance and, as appropriate, abide by all building, electrical and other codes. Land adjacent to Signs shall be kept free from debris, weeds and trash.
 - (c) *Setback Requirements.* All Signs shall be set back a minimum of ten feet (10') from the back edge of the curb of an adjacent street and five feet (5') from any adjacent side or rear property line; provided, however, that no Sign shall be located within the public right-of-

way, except for (i) Government Signs, and (ii) up to three (3) Temporary Signs placed on any lot from June 15 through August 15 and from September 15 through November 15.

- (d) *Interference With Traffic Safety Prohibited.* No Sign may be located in a way that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public or private streets or driveways.
- (e) *Obstruction of or Confusion With Government Sign Prohibited.* No Sign may be erected such that by its location, color, size, shape, nature or message it would tend to obstruct the view of, or be confused with, traffic control devices or other Government Signs.
- (f) *Obstruction of Exits.* No Sign shall be erected or maintained so as to prevent free ingress or to egress from any door, window or fire escape of any structure.
- (g) *Message Substitution.* Subject to the consent of the owner or occupant of the property on which the Sign is located, a noncommercial message may be substituted for any allowed commercial message or any other allowed noncommercial message; provided that, the Sign is legal without consideration of message content. If the Sign is one for which no permit is required, the message substitution may be made without any additional approval. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not allow for the substitution of an offsite commercial message in place of an onsite commercial message.
- (h) *Consent of Owner/Occupant.* No Sign shall be posted on any property without the consent of the owner or occupant of the property.
- (i) *Prohibited Signs.* Any Sign that is not either expressly permitted by the Sign Regulations or exempt from the Sign Regulations shall be a prohibited Sign. It shall be unlawful for any person to erect, install, post or place any prohibited Sign. Any prohibited Sign shall be subject to removal in accordance with the provisions of Section 15-555. The following types of Signs are prohibited within the City:
 - (1) Signs containing a message that is obscene, as that term is defined in K.S.A. 21-4301, and amendments thereto.
 - (2) Signs with flashing lights or reflectors, that fluctuate in light intensity, or that convey the impression of movement through lights or illuminations that flash, move, rotate, scintillate, blink, flicker or vary in intensity or color, except for Holiday Displays.
 - (3) Signs that rotate, have moving components, or are animated.
 - (4) Signs affixed to a pole.
 - (5) Signs located on or above the roof of any building, not including false mansard roof, canopy or other fascia.

- (6) Signs with changeable copy, except as specifically allowed by the Sign Regulations.
- (7) Directly illuminated Signs, including, but not limited to, exposed incandescent, neon or other tube type lights; provided that, indirect flood lighting with the same is permissible when specifically provided for by the Sign Regulations.
- (8) Searchlights.
- (9) Electronic message or graphic Signs.
- (10) Signs directing attention to a business, organization, commodity, service, product or activity not conducted, sold, offered available, or located on the premises where the Sign is located, including, but not limited to, Signs affixed to or painted onto structures, such as benches and shelters, and freestanding off-premises Signs commonly referred to as billboards or poster panels.
- (11) Attention-attracting devices not specifically allowed by the Sign Regulations.
- (12) Snipe Signs, defined as a Sign of any material whatsoever that is attached in any way to a utility pole, lamppost, tree, shrub, fence, another Sign, curb, hydrant or other similar object located or situated on public or private property.
- (13) Portable Signs, defined as Signs that are capable of being carried, wheeled or otherwise transported from one (1) location to another.
- (14) Inflatable Signs.
- (15) Any Sign attached to or displayed on a vehicle. It shall be prohibited to park or use a vehicle in a way as to function as a Sign, defined to include the parking of any vehicle, trailer or similar moving structure containing or supporting any Sign within one hundred and fifty feet (150') of a street right-of-way, with the following exceptions:
 - a. Vehicles actively involved in construction on, or delivery to the site.
 - b. Vehicles parked in any business district screened from or not generally visible from the street right-of-way.
 - c. Vehicles of a size that fully fits within a standard parking space, containing Signs painted on or permanently affixed on the doors or integral side body panels that do not exceed sixteen square feet (16 sq. ft.) in Sign Area.

Sec. 15-552. – Signs Permitted in Business Districts.

In addition to the provisions of Section 15-551 related to Signs in all districts, the following requirements and provisions shall apply to Signs in business districts (B-1, B-2 and B-3P).

- (a) *Permits required.* Except as otherwise provided for by this Section 15-552 or other applicable City ordinance, it shall be unlawful for any person or entity to construct, alter, replace, relocate, convert or change any Sign in a business district without first obtaining approval and a Sign permit, and paying any applicable permit fee; provided that the approval or permit is not required for ordinary maintenance and repair of a permitted Sign. Applications for a Sign in conjunction with the submission of a site plan shall include the plans for the Sign within the site plan. Permits shall not be required for address signs, Government Signs, Holiday Displays, or Window Signs.
- (b) *Sign Approval and Issuance of Sign Permit.*
- (1) *Application.* Applications for a Sign permit and Sign approval shall be submitted to the Building Official/Codes Administrator, and shall include the following information:
- a. name, address, and telephone number of the applicant, the owner of property (if different) and the contractor (if applicable);
 - b. requested location of the proposed Sign;
 - c. nine (9) sets of plans for the proposed Sign drawn to scale indicating the sign location on the site, Sign size, method of illumination, colors, materials, and method of attachment, but if a deviation from the Sign Regulations is requested, plans must also include the location and nature of all permanent Signs located within one thousand feet (1,000') of the site where the proposed Sign is to be located; and
 - d. any other information deemed necessary by the Building Official/Codes Administrator, the Planning Commission or the Governing Body.
- (2) *Sign Review.* The Planning Commission shall consider a completed application at its next regularly scheduled meeting. In reviewing a proposed Sign, the Planning Commission shall consider whether the size, appearance and other characteristics of the Sign are harmonious with the neighboring and surrounding areas and surrounding Signs, and whether the Sign meets the requirements of the Sign Regulations, other applicable City ordinances and the Comprehensive Plan. When appropriate to ensure traffic safety, the Planning Commission may request the applicant to provide a traffic study of the area in which the Sign is to be located.
- (3) *Sign Approval.* The Planning Commission is authorized to approve the issuance of a Sign permit for Flags and Yard Signs. Wall Signs and Monument Signs require approval by the Governing Body. After reviewing the proposed Sign, the Planning Commission may recommend to the Governing Body that the Sign be approved, approved with stipulations, or rejected. The Governing Body shall review this recommendation and any reasons therefor, and may then: adopt the recommendation, override the recommendation by a two-thirds (2/3) majority vote of its membership, or return the recommendation to the Planning Commission with

a statement specifying the basis for its failure to approve or disapprove. If the recommendation is returned, the Planning Commission, after reconsidering the same, may resubmit its original recommendation giving the reasons therefor, or submit a new or amended recommendation. Upon the receipt of this recommendation, the Governing Body may then: adopt the recommendation, override the recommendation by a simple majority, or take no further action. If the Planning Commission fails to deliver a recommendation to the Governing Body after its next regular meeting, the Governing Body shall consider that inaction as a resubmission of the original recommendation and proceed accordingly. If the Governing Body takes no further action, the Sign may be considered rejected.

- (4) *Issuance of Sign Permit.* Upon approval of a Sign, the Building Official/Codes Administrator shall issue a Sign permit; provided that, all other applicable City ordinance requirements have been met, and any applicable permit fee has been paid.
 - (5) *Revocation of Sign Permit.* Upon the recommendation of the Building Official/Codes Administrator, the Governing Body may revoke a Sign permit upon failure of the permit holder to comply with any provision of the Sign Regulations or other applicable City ordinance.
- (c) *Standards for Flags.* A maximum of three (3) Flags may be displayed provided that no Flag shall exceed forty square feet (40 sq. ft.) in area, and no flagpole for the same shall exceed thirty-five feet (35') in height. Flagpoles shall be ground-mounted and must comply with the setback provisions.
 - (d) *Standards for Wall Signs.* Each building may be permitted two (2) permanent Wall Signs; provided, however, that the Planning Commission may recommend that the Governing Body approve a deviation for additional Wall Signs for multiple tenants when the circumstances regarding the use and design of the building support that deviation. No Wall Sign shall exceed thirty square feet (30 sq. ft.) in Sign Area and five feet (5') in height, and the Wall Sign shall be attached firmly to the building parallel with and adjacent to the wall to which it is attached. All Wall Signs shall be constructed of materials and designed in a way as to be compatible with the buildings located on the same property. Wall Signs shall not contain elements that extend above the top of the wall on which the Wall Sign is located.
 - (e) *Standards for Monument Signs.* In lieu of Wall Signs described in this Section 15-552(d) above, a detached Monument Sign may be permitted. The Monument Sign shall not exceed six feet (6') in height above the average grade and the Sign Face shall not exceed twenty square feet (20 sq. ft.) in Sign Area; provided that the Sign Area for a Monument Sign with identical Sign Faces on two (2) sides shall be calculated by using only one (1) Sign Face. The Monument Sign may be placed in the front setback; provided, however, that the Monument Sign shall be located at least ten feet (10') from the street curb, or more if safety requires. If not sitting within the landscaped setback, the Monument Sign base shall be located within curbed landscaped area, extending a minimum of three feet (3') on all sides

of the Monument Sign base. The base of a Monument Sign shall be architectural in nature and utilize materials consistent with the design of surrounding buildings and neighborhood.

- (f) *Standards for Yard Signs.* Two (2) Yard Signs may be installed on a site; provided that Yard Signs shall not exceed two square feet (2 sq. ft.) in Sign Area. Yard Signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the Yard Sign or the supportive structure may be moved by the wind and cause injury to persons or property. All Yard Signs shall be of sound structural quality, be maintained in good repair and have a neat and clean appearance. Land adjacent to Yard Signs shall be kept free from debris, weeds and trash. If Yard Signs are not being maintained as described, the Building Official/Codes Administrator may deem them to be a public hazard or nuisance and order the Yard Signs to be repaired or removed.
- (g) *Lighting.* Signs may be approved and permitted to provide for internal lighting or back-lighting. If a Sign is externally or ground lighted, the light source shall be completely concealed and not visible to pedestrians, vehicles and persons located on adjacent property. All illuminated Signs shall abide by any lighting standards set forth in the Sign Regulations or other applicable City ordinances.
- (h) *Sign Schemes.* A developer or property owner of an office park, shopping center, multi-tenant building or other grouping of three (3) or more tenants or establishments under unified control or ownership may seek approval of a designated Sign scheme to enhance the quality, harmony and consistency of the development, and to expedite future Sign approval. In applying for a Sign scheme, the developer or owner shall prepare and submit a set of Sign standards for all permanent exterior Signs that comply with the requirements for Signs established by the Sign Regulations. These standards shall set forth all Sign scheme requirements, including location, placement, size, appearance, colors, materials, graphic design styles, font, type of illumination, possible variances/options, etc. The approval of a proposed Sign scheme shall follow the same procedure for Sign approval outlined in this Section 15-552(b)(2)-(3) above. Upon receipt of a completed application (including any applicable fee) for a proposed Sign that meets the standards of an approved Sign scheme, the Building Official/Codes Administrator shall issue a Sign permit, unless, in his or her sole discretion, further approval is deemed necessary. The standards of the approved Sign scheme shall run with all leases or sales of the approved development. Upon application, an approved Sign scheme may be modified by the same process; provided that minor modifications may be approved by the Building Official/Codes Administrator.
- (i) *Service Stations.* In addition to any other Sign authorized by the Sign Regulations, service stations may also be permitted the following:
 - (1) One (1) Sign that may be illuminated provided that the Sign Area shall not exceed thirty-six square feet (36 sq. ft.). The Sign may be detached or wall-mounted.
 - (2) Two (2) non-illuminated Signs on each fuel pump island canopy provided that the Sign Area of each Sign shall not exceed six square feet (6 sq. ft.).

- (3) Four (4) non-illuminated Signs on each fuel pump island provided that two (2) of these Signs shall not exceed two square feet (2 sq. ft.) in Sign Area and the two (2) of these Signs shall not exceed one square foot (1 sq. ft.) in Sign Area.
- (4) Fuel pumps may display other Signs required by law which shall be of minimum size and quantity.

Sec. 15-553. – Signs Permitted in Residential Districts.

In addition to the provisions of Section 15-551 related to Signs in all districts, the following requirements and provisions shall apply to Signs in residential districts (R-1 and R-2P):

- (a) *Standards for Flags.* Flags are allowed provided that that no Flag shall exceed twenty-five square feet (25 sq. ft.) in area.
- (b) *Standards for Yard Signs.* One (1) Yard Sign may be constructed and maintained on any lot for an indefinite period of time. All Yard Signs shall have a Sign Area no larger than six square feet (6 sq. ft.) and with a maximum height of three and one-half feet (3 ½') above grade. Yard Signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the Yard Sign or the supportive structure may be moved by the wind and cause injury to persons or property. All Yard Signs shall be of sound structural quality, be maintained in good repair and have a neat and clean appearance. Land adjacent to Yard Signs shall be kept free from debris, weeds and trash. If Yard Signs are not being maintained as described, the Building Official/Codes Administrator may deem them to be a public hazard or nuisance and order the Yard Signs to be repaired or removed.
- (c) *Standards for Wall Signs.* A public institution, including schools, houses of worship, community centers, cultural facilities, and other public/semi-public facilities, shall be allowed up to two (2) permanent Wall Signs. Wall Signs must be approved and permitted under the same procedure as required for Signs in business districts set forth above in Section 15-552. Wall Signs shall be of a design, location and size as determined by the Planning Commission to be in harmony with the neighborhood and the building served. No Wall Sign shall exceed thirty square feet (30 sq. ft.) in area and five feet (5') in height. Wall Signs shall not include a changeable copy panel.
- (d) *Standards for Monument Signs.* Monument Signs may be approved and permitted under the same procedure as required for Signs in business districts as set forth in Section 15-552, and subject to the following:
 - (1) No Monument Sign shall exceed twenty square feet (20 sq. ft.) in area and six feet (6') in height above the average grade; provided that the Sign Area for a Monument Sign with identical Sign Faces on two (2) sides shall be calculated using only one (1) Sign Face; and further provided that at the Planning Commission's discretion, a Monument Sign may be allowed up to an additional ten square feet (10 sq. ft.) for

a changeable copy panel. Up to fifty percent (50%) of a the Sign Area of a Monument Sign may consist of a changeable copy panel.

- (2) The Monument Sign may be on private property or non-street right-of-way; provided that, upon the recommendation of the Public Works Director, the Governing Body approves the location and determines that it shall not create a traffic hazard, maintenance problem, nuisance or other condition adverse to public interest.
- (3) The Monument Sign is maintained in good condition and appearance at all times, and adjacent land is kept free of weeds and debris. The homeowner's association or property owners served by the Monument Sign shall be responsible for its maintenance. If long-term maintenance is a concern, the Governing Body may require a deposit of surety in the amount of the cost of one (1) year's maintenance plus the cost of demolition and removal.
- (4) The design, shape, size and location of the Monument Sign shall be in harmony with the neighborhood served, and present a dignified appearance. Materials and design shall be such that long-term maintenance can be readily and economically accomplished.

Sec. 15-554. – Signs Permitted in Planned Districts.

The overall project development plan for an approved planned district (R-2P and B-3P) may incorporate specific exceptions or additions to the Sign Regulations as authorized by the Planning Commission and approved by the Governing Body.

Sec. 15-555. - Removal of Signs.

- (a) *Removal of Signs on Vacated Premises.* If a building or premises is vacated for six (6) months or longer, any Sign located thereon other than a Government Sign or Yard Sign shall be deemed abandoned. The property owner shall remove any abandoned Sign, and shall restore the building facade to its normal appearance. In the case of a Monument Sign, the owner shall remove all lighting fixtures and structural members, or alternatively, arrange for an opaque surface to cover the fixtures and members. If the owner fails to remove the Sign within ten (10) days of written notice, the City may remove the Sign at the owner's expense.
- (b) *Unsafe or Unlawful Signs.* If the Building Official/Codes Administrator determines that any Sign is unsafe, insecure, is a menace to the public, or has been constructed or maintained in violation of the Sign Regulations or any other applicable City ordinance, written notice shall be given to the property owner to remove that Sign, or to bring it into proper compliance. If the owner fails to remove the Sign or to bring it into proper compliance within five (5) days of the notice, then the City may remove or appropriately alter the Sign at the owner's expense, and any applicable permit shall be revoked. No further Sign permit shall be issued to that party until the cost has been fully paid. The

Building Official/Codes Administrator may immediately remove without notice (at the owner's expense when appropriate) any Sign that is:

- (1) an immediate peril to persons or property;
- (2) specifically prohibited by the Sign Regulations; or
- (3) on the right-of-way, public park or other public property without City authorization.

Sec. 15-556. - Nonconforming Signs.

A nonconforming Sign legally existing upon the adoption of the ordinance from which the Sign Regulations are derived may remain; provided that it undergoes no changes in the basic structure, source of illumination, location or appearance, or any maintenance or repair costing more than fifty percent (50%) of the Sign's current value; and, further provided that, if the current business closes or relocates, the Sign shall at that time be removed or otherwise brought into proper compliance with the Sign Regulations or other applicable City ordinance.

Sec. 15-557. - Deviations.

Upon the Planning Commission's recommendation, the Governing Body may grant a deviation to the Sign Regulations with regard to the size, color, location, illumination of, and number of Signs, based upon unique architectural treatments, special project conditions, or specific hardship. The Planning Commission's consideration of a proposed deviation shall review whether the proposed deviation:

- (a) complies with the general purpose and intent of the Sign Regulations and other applicable City ordinances;
- (b) will adversely affect neighboring property owners, and whether the proposed deviation is consistent or compatible with the area as a whole. It should be considered whether any lighting will disturb residents on nearby residential properties;
- (c) will adversely affect public safety, or distract traffic on adjacent streets;
- (d) in addition to all existing or potential future Signs in the nearby and surrounding area, significantly clutters or negatively impacts or blights the visual landscape;
- (e) is intended to account for topography, landscaping, existing buildings or unusual building designs that would otherwise substantially block or impair the visibility of the applicant's existing or proposed Signs and appropriate to provide reasonable visibility of a business entity's main Sign; and
- (f) is of high quality and is compatible and integrates aesthetically with the daytime/nighttime color, lighting, and architecture of the area as a whole.

SECTION 2. That existing Sections 15-548 through 15-559 of the Code of Ordinances, City of Fairway, Kansas are hereby repealed.

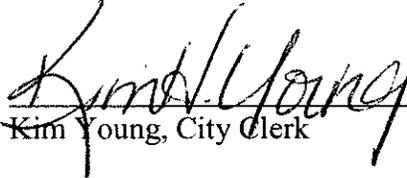
SECTION 3. This Ordinance shall become effective upon adoption and publication in the official City newspaper.

PASSED by the City Council the 14th day of October, 2019. **APPROVED** by the Mayor.



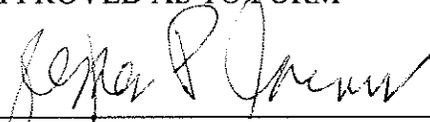
Melanie Hepperly, Mayor

ATTEST:



Kim Young, City Clerk

APPROVED AS TO FORM



Stephen P. Chinn, City Attorney