

ARTICLE 12

CONSTRUCTION AND DEFINITIONS

PART 1

RULES OF CONSTRUCTION AND INTERPRETATION

12-101 **CONSTRUCTION:**

- A. In the construction of these Regulations, the provisions and rules of this Section 12-101 shall be preserved and applied, except when the context clearly requires otherwise:
 - 1. Words used in the present tense shall include the future.
 - 2. Words in the singular number include the plural number and words in the plural number include the singular number.
 - 3. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
 - 4. The word "shall" is mandatory.
 - 5. The word "will" implies customary or standard procedure.
 - 6. The word "may" is permissive.
 - 7. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies and all other legal entities.
 - 8. The word "City" means the City of Merriam, Kansas.
 - 9. Unless otherwise specified, all distances shall be measured horizontally.
 - 10. The phrase "City Planning Area" means the incorporated area of the City of Merriam.
 - 11. The phrase "Governing Body" means the Governing Body of the City of Merriam, Kansas.

12-101 B. Any word or phrase which is defined in this Article 12, or elsewhere in these Regulations, shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

12-102 **INTERPRETATION:**

- A. Minimum Requirements: In their interpretation and application, the provisions of these Regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, welfare and aesthetic values.
- B. Overlapping or Contradictory Regulations: Where the conditions imposed by any provision of these Regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these Regulations or of any law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern.
- C. Private Agreements: The Provisions of these Regulations are not intended to abrogate deed restrictions, covenants, subdivision restrictions, easements or any other private agreement or restriction on the use of land. Where the provisions of these Regulations, however, are more restrictive or impose higher standards than a private restriction or agreement, the requirements of these Regulations shall control. Where the provisions of a private restriction or agreement are more restrictive or impose higher standards than these Regulations, such private restriction or agreement shall control if properly enforced by a person or organization having the legal right to enforce such restriction or agreement; private restrictions and agreements shall not be enforced by the City, except as set forth in Section 3-402 of these Regulations.
- D. Unlawful Uses: No structure or use which was not lawfully existing at the time of the adoption of these Regulations shall become or be made lawful solely by reason of the adoption of these Regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these Regulations, said structure or use remains unlawful hereunder.
- E. Not a Licensing Regulation: Nothing contained in these Regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility, or to carry on any trade, industry, occupation or activity.

12-103 **SEPARABILITY:** It is hereby declared to be the intention of the City that the several provisions of these Regulations are separable, in accordance with the following rules:

- A. If any court or competent jurisdiction shall adjudge any provision of these Regulations to be invalid, such judgment shall not affect any other provision of these Regulations.
- B. If any court of competent jurisdiction shall judge invalid the application of any provision of these Regulations to a particular property or structure, such judgment shall not affect the application of said provision to any other property or structure.

12-104 **EFFECT ON EXISTING CONSTRUCTION PERMITS:** Nothing in these Regulations shall be deemed to require any change in plans, construction or designated use of any structure in the event that:

- A. A construction permit for such structure was lawfully issued prior to the effective date of these regulations, or the effective date of any amendment thereof.
- B. Such construction permits had not by their own terms expired prior to such effective date.
- C. Such permit issued on the basis of an application showing complete plans for proposed construction.
- D. There has been a substantial change of position, substantial expenditure or incurrence of substantial obligations by the permit holder in reliance on such permit.
- E. Such change of position, expenditures or incurrence of obligations were made prior to published or actual notice of a proposed amendment of these Regulations which amendments would have made illegal the issuance of such permits.
- F. Construction pursuant to such permit is completed prior to the expiration of such permit or certificate.

12-105 **INSPECTION:** Upon the issuance of a construction permit and to the time of completion, the City shall provide progressive on-site inspections in order to determine that all construction is in accordance with City Codes, ordinances, and regulations.

PART 2**DEFINITIONS**

12-201 The following definitions shall be used in the construction and interpretation of these Regulations.

ACCESSORY USE: See Section 5-102.

AESTHETICS IN ZONING: The careful regulating of building or site design, providing for zoning districts, setbacks, height limits, lot size, fencing, signs, stormwater control and landscaping are examples of zoning considerations related to a pleasing appearance. The architectural style of structures can be designed to fit new development. Aesthetics include portions of projects devoted to landscape beautification and natural plant growth for the purpose of improving the environment, character and value of the total urban area, thereby promoting the public health and general welfare.

AGRICULTURAL USES: The use of a tract of land of not less than five acres for growing crops in the open; horticulture, floriculture and necessary accessory uses, including the structures necessary for carrying out farming operations and the residence of the person who owns or operates the farm, and the family thereof, except where specifically prohibited by City or State law; provided, however, such agricultural use shall not include the following uses: (1) the maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted; (2) wholesale or retail sales as an accessory use unless the same are specifically permitted by these Regulations. Agriculture does not include the feeding of garbage to animals, the raising of poultry or fur bearing animals as a principal use or the operation or maintenance of a commercial stockyard or feed yard.

ALLEY: A dedicated public right-of-way, other than a street, that affords a secondary means of access to abutting property.

APPAREL STORES: Stores selling new and/or used clothing for men, women or children at retail.

APARTMENT HOUSE: See Dwelling, Multiple-Family.

APPLIANCE REPAIRS: The repairing and servicing of common household appliances such as washing machines, television sets, power tools, electric razors, radios and refrigerators.

APPLIANCE SALES: The sale of common household appliances such as washing machines, television sets, power tools, electric razors, radios, refrigerators, and repair of the same types of appliances as are sold on the premises where such repairs are incidental or accessory to the sale of such types of appliances.

AUTOMOBILE ACCESSORY STORES: Stores engaged primarily in the business of selling tires, batteries, seat covers and other automobile accessories.

AUTOMOBILE LAUNDRY: A structure or portion thereof containing facilities for washing more than two automobiles, using production-line methods with a chain conveyor, blower, steam-cleaning device or other mechanical device.

AUTOMOBILE SALES: The sale of new and used automobiles and other motor vehicles in operating condition; the storage of automobiles and other motor vehicles in operating condition, but not including storage of trucks of more than five tons in weight or buses; and, the repair and servicing of such vehicles, but not including body work, painting or motor rebuilding, unless specifically permitted by the zoning district regulations.

AUTOMOBILE SERVICE STATION: A structure and surrounding land used for the storage and sale of petroleum fuel primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs.

AWNING: A structure supported entirely from the exterior wall of a building, which is often used as an architectural detail or for the purpose of shielding a doorway or window from the elements. Awnings are composed of non-rigid materials (canvas, plastic) except for the supporting framework (Ord. No. 1530, § 2, 01-23-06).

BANKS AND FINANCIAL INSTITUTIONS: Commercial banks, savings and loan associations, brokerage offices and other similar financial institutions, but not including pawn shops.

BEVERAGE DISTRIBUTORS: Warehouses for the storage and distribution of beer, soft drinks and other beverages, but not including bottling plants and similar industrial uses.

BLOCK: The land adjoining one side of a street between two consecutive junctions of said street with streets, railway rights-of-way or waterways crossing or meeting said side of said street.

BOARDING HOMES FOR CHILDREN: A family home where children not related to the family by blood, marriage or adoption are cared for twenty-four hours a day. Boarding homes for children shall meet all requirements of the Kansas State Board of Health - Maternal Child Care Division.

BUILDING: Any covered structure built for the support, shelter or enclosure of persons, chattels or movable property of any kind and which is permanently affixed to the land.

BULK REGULATIONS: Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk Regulations include regulations controlling:

1. Maximum height.
2. Maximum lot coverage.
3. Minimum size of yard and setbacks.

BUSINESS AND PROFESSIONAL OFFICE: The office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

BUSINESS DISTRICT OR COMMERCIAL DISTRICT: Any zoning district designated with a "C", for example "C-0", "C-1 ", etc.

CAMPGROUND: An area or premises in which space is provided for transient occupancy or use by tourists occupying mobile homes, camping trailers or tents.

CANOPY: A permanent structure, freestanding or extending from part or all of a building façade (generally overhanging a sidewalk) and often used to provide protection from sun or rain or as an architectural detail. Unlike awnings, canopies are composed of durable, rigid building materials, such as masonry, metal, wood or glass (Ord. No. 1530, § 2, 01-23-06).

CARPORTS: A roofed automobile shelter consisting of a roof, post supports and/or one or more walls, attached or detached to a principal building. An attached garage or carport shall be subject to the same required setbacks as the main structure. Detached carports are considered accessory structures. A detached garage or carport shall be subject to the setbacks required for detached accessory buildings (Ord. No. 1530, § 2, 01-23-06).

CAPACITY IN PERSONS: The maximum number of persons that can avail themselves of the services (or goods) of an establishment at any one time with reasonable comfort and safety.

COMMON OPEN SPACE: An open green area designed and developed primarily for the use and benefit of the residents of the development for recreation, courts, gardens, or open space; it shall not include space devoted to public or private streets, and parking for residential and nonresidential uses.

CONSTRUCTION PERMIT: An official document issued by the Building Official authorizing performance of specific activity related to the building trades.

CONVENIENCE STORE: The combined uses of an "Automobile Service Station" and "Food Stores" as defined by these Regulations. The consumption of food and beverage on the premises shall be prohibited.

CORNER LOT: The front of a corner lot shall be determined by the street address of the dwelling as designated at the time of the issuance of a building permit. A lot which adjoins the point of intersection or meeting of two or more streets and in which the interior angle

formed by the street lines of 135 degrees or less. If the street lines are curved, the angle shall be measured at the point of intersection of the extensions of the street lines in the directions which they take at the intersections of the street line with the side lot line and with the rear lot line of the lot. If the street line is curved at its point of intersection with the side lot line or rear lot line, the tangent to the curve at that point shall be considered the direction of the street line. There shall be no rear yard as defined, and in such case the sides opposite the street sides shall be considered as side yards for setback purposes. (Ord. No. 1178 § 10/25/93)

DAY CARE CENTER: Child care facility not operated from a single family home or residence. Typical uses include: Facilities that care for children, preschools, kindergartens not operated by public schools, and other establishments offering care to groups of children for part or all of the day or night, with specific exclusion of temporary or seasonal religious instructional schools, such as summer Bible school and church school classes. All Day Care Centers must comply with state and county licensing requirements.(Ord. No. 1614 §, 11; 02-23-09)

DENSITY: The number of dwelling units per gross acre or per square feet of zoning lot area.

DEVELOPER: The legal or beneficial owner or owners of all of the land proposed to be included in a planned development, or the duly authorized agent thereof. The holder of an option or contract or purchase, a lessee having a remaining term of not less than 40 years, or other person having an enforceable proprietary interest in such land shall be deemed to be a developer for the purpose of these Regulations.

DOG KENNEL: Shall mean the same as defined by City Ordinance.

DRIVE-IN ESTABLISHMENT: An enterprise which accommodates patrons' automobiles and from which the occupants of the automobiles may make purchases, transact business, view motion pictures or other entertainment.

DRY CLEANING (Self-Service): An establishment providing facilities with which customers may dry clean their own clothes or other fabrics.

DRY CLEANING PLANT: An establishment in which clothing and other fabrics are dry cleaned professionally.

DWELLING: A building or portion thereof , but not a mobile home, designed or used for a residential occupancy.

DWELLING, ATTACHED: A residential building which is joined to another dwelling at one or more sides by a party wall or walls.

DWELLING, DETACHED: A residential building which is entirely surrounded by open space on the same lot.

DWELLING, MULTIPLE-FAMILY: A residential building containing three or more dwelling units.

DWELLING, SINGLE-FAMILY: A residential building containing one dwelling unit only.

DWELLING TWO-FAMILY: A building containing two dwelling units only.

DWELLING UNIT: One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by one family and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

ENVIRONMENTAL IMPACT STUDY: A study of environmental impact regarding traffic, noise, lighting, parking, stormwater control and/or other aesthetic aspects.

ENVIRONMENTAL IMPACT: Conditions affecting the general welfare of people, and their surrounding environment.

FAMILY: Either (a) an individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or (b) a group of not more than four persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; plus in either case, usual domestic servants. A family may include any number of gratuitous guests or minor children not related by blood, marriage or adoption.

FENCE: A free-standing structure of metal, masonry, composition, wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening or partition purposes. (See Section 3-406 also.)

FLOOR AREA: The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, computed as follows:

- A. For Determining Floor Area Ratio: The sum of the following areas:
1. the basement floor area when more than one-half of the basement height is above the finished lot grade level.
 2. elevator shafts and stairwells at each floor.
 3. floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof).
 4. penthouses.

5. attic space having head room of seven feet, ten inches or more.
6. interior balconies and mezzanines.
7. enclosed porches; and
8. floor area devoted to accessory uses.

Space devoted to off-street parking or loading shall not be included in the floor area. The floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks shall be computed by counting each ten feet of height or fraction thereof, as being equal to one floor.

B. For Determining Off-Street Parking and Loading Requirements: The sum of the following areas:

1. Floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks or closets;
2. Any basement floor area devoted to retailing activities; and
3. Floor area devoted to the production or processing of goods or for business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted here), off-street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than the area devoted to retailing activities, the production or processing of goods, or business or professional offices.

FOOD STORES: Stores which sell foods, fresh or frozen, and other items commonly sold in connection therewith and including, but not limited to, stores commonly referred to as dairy stores, delicatessens, fruit and vegetable markets, grocery stores, health food stores, nutshops and supermarkets. Sales must be made at retail on the premises, but not for consumption on the premises.

FRATERNAL AND/OR SERVICE CLUBS: An association formally organized for a common purpose or interest, and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. Foods, meals and beverages may be served on such premises, provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the

organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws.

FRONT LOT LINE: See Lot Line, Front.

FRONT YARD: See Yard, Front.

FRONTAGE: The length of a front lot line or lines.

GARDEN STORES: Stores which sell growing plants, seeds, bulbs, shrubs, gardening and landscaping tools, implements and supplies, including lawn furniture.

GROUP DAY CARE HOME: A home in which care is given to five or more children not related to the operator by close ties of blood, marriage, or legal adoption, away from the home of the parent or legal guardian, for part or all of a day. All day care services shall meet all requirements of the Kansas State Board of Health - Maternal Child Care Division.

HEIGHT MAXIMUM: A horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. No part of any structure shall project through such plane except:

1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, water tanks and similar roof structures needed to operate and maintain the building on which they are located;
2. Flag poles, television aerials, steeples, bell towers, carillons, monuments, cupolas and electric transmission line towers.

HIGH RISE: A structure exceeding forty (40) feet in height.

HOME OCCUPATIONS: See Section 5-301 through 5-305, (also 3-308).

HOTEL: A building or portion thereof or a group of buildings, which provides sleeping accommodations for transients on a daily or weekly basis, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court or otherwise.

INDUSTRIAL DISTRICT: Any zoning district designated with an "I-1".

INTENSITY: The degree to which an activity or use, or group of uses, is concentrated. Constituting or relating to a method of land use that aims to increase the productivity or economic return of a fixed area.

LANDSCAPING: The improvement of a lot, parcel or tract of land with grass, shrubs and or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as

fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

LAUNDRY: An establishment in which clothing and other fabrics are laundered professionally.

LAUNDRY: (Self-Service) An establishment providing facilities with which customers may launder their own clothes or other fabrics.

LIGHTING: See Section 4-201.

LOT AREA: The area of a horizontal plan bounded by the front, side and rear lot lines.

LOT, CORNER: See Corner Lot.

LOT COVERAGE: The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

LOT DEPTH: The distance between the midpoints of the front lot line and the midpoint of the rear lot line.

LOT LINE: Lot Boundary Line. See Lot Line, Front; Lot Line, Rear; Lot Line, Side.

LOT LINE, FRONT: A street right-of-way line forming the boundary of a lot.

LOT LINE, REAR: The lot line that is most distant from and is, or is most nearly, parallel to the front lot line. If a rear lot line is less than fifteen (15) feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to the front line. (Ord. No. 1178 § 10/25/93)

LOT LINE, SIDE: A lot line which is neither a front lot line or a rear lot line.

LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Johnson County, or a parcel of land the deed to which was recorded prior to adoption of these Regulations. The owner of such a lot or parcel shall be deemed to be any equitable owner.

LOT SIZE REQUIREMENTS: Restrictions on the dimensions of lots including (1) minimum lot area, width and depth; and (2) maximum density. Minimum lot area, width and depth establish the size of the zoning lot on which a structure or use, or two or more structures or uses, may be constructed or established.

LOT WIDTH: The distance on a horizontal plane between the side lot lines, measured at right angles to the lot depth at the established front building line.

LOT, ZONING: A parcel of land that is designated by its owner or developer, at the time of applying for a zoning certificate, as a tract all of which is to used, developed, or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of:

1. A single lot of record, or
2. A portion of a lot of record, or
3. A combination of complete lots of records, complete lots and portions of lots of record, or portions of lots of records.

MANUFACTURED HOME: means a structure that:

- (1) is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and
- (2) is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403. (Ord. No. 1292, §1, 3-24-97)

MINI-STORAGE FACILITY: A building where the public may rent space for storage of personal property.

MOBILE HOME: means a structure that:

- (1) is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and
- (2) is not subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403. (Ord. No. 1292, §1, 3-24-97)

MODULAR HOME: means a structure that:

- (1) is transportable in one or more sections;
- (2) is not constructed on a permanent chassis;

- (3) is designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and
- (4) is certified by its manufacturer as being constructed in accordance with the Uniform Building Code and other related associated codes. (Ord. No. 1292, §1, 3-24-97)

MOTOR FREIGHT TERMINAL: A building or area in which freight brought by truck is assembled and/or stored for routing in intrastate and interstate shipment by truck or in which semi-trailers, including tractor and/or trailer units, and other trucks are parked or stored.

NONCONFORMING LOT OF RECORD: An unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.

NONCONFORMING STRUCTURE: A structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.

NONCONFORMING USE: An existing use of a structure or land which does not comply in some respect with the use regulations applicable to new uses in the zoning district in which it is located.

NONCONFORMITY: A nonconforming use, nonconforming structure or a nonconforming lot of record.

NURSING OR CONVALESCENT HOME: An institution for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism or narcotics addiction.

OBSTRUCTIONS: See Section 3-406 (A).

OCCUPANCY PERMIT: Certificate of Occupancy as defined in the Building Code.

OFFICE: See Business and Professional Offices.

OPEN SPACE: An open green area designed for recreation, courts, gardens, or open space; it shall **not** include space devoted to public or private streets, or parking. (See Common Open Space or Public Open Space).

ORNAMENTAL FENCE: A decorative fence designed to permit the free passage of air and light and which is aesthetically compatible with the surrounding environment. Examples: wrought iron, split rail, picket.

OUTDOOR STORAGE: Any items not listed as permitted accessory or temporary uses under Article 5 of these Regulations when such items are left outside of an enclosed building for a period exceeding forty-eight hours.

OVERNIGHT PARKING: Parking of any vehicle between the hours of 5:00 p.m. and 8:00 a.m. for a period of six hours or more, on or near the same premises.

PACKAGE LIQUOR STORE: An establishment in which alcoholic beverages are sold for consumption off the premises.

PERMIT: See definitions for Construction Permit and Occupancy Permit.

PHARMACIES: Stores which sell drugs and medicine, and medical, surgical and dental supplies and appliances only.

PLAT: See the Subdivision Regulations ordinance of the City of Merriam.

PLOT PLAN: A drawing in plan view showing all the information necessary for determining compliance with the zoning regulations. Such information includes the location of all proposed buildings, additions and structures in relation to property lines and may include a property survey showing boundaries, frontage streets, topography, existing improvements and utilities.

PRINCIPAL STRUCTURE: A structure in which a principal use of the lot on which the structure is located is conducted.

PRINCIPAL USE: The main use of land or structures as distinguished from a subordinate or accessory use.

PRIVATE CLUB: An association organized and operated for profit or not for profit for persons who are bona fide members paying annual dues, which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be served or sold to members and their guests provided such service or sale of alcoholic beverages is in compliance with all federal, state, county and local laws.

PUBLIC OPEN SPACE: A parcel of land or an area of water, or a combination of land and water dedicated to public use and available for the use and enjoyment of the general public. Public open space does not include streets, alleys, off-street parking or loading areas.

PUBLIC SEWER AND WATER SYSTEM: Any system, other than an individual septic tank, tile field or individual well, operated by a municipality or other governmental agency or a public utility for the disposal of waste and the furnishing of water on an individual system approved by the State Board of Health.

REAR LOT LINE: See Lot Line, Rear.

REAR YARD: See Yard, Rear.

RECREATION AND ENVIRONMENT COMMITTEE: A subcommittee of the Governing Body responsible for the approval of signs. Makes recommendations regarding recreation and environmental matters.

REMODELING: Any change in a structure (other than incidental repairs and normal maintenance) which may prolong its useful life, or the useful life of its supporting members such as bearing walls or partitions, columns, beams, girders or foundations; or the construction of any addition to, or enlargement of, a structure; or the removal of any portion of a structure.

RESIDENTIAL DISTRICT: Any zoning district designated with an "R", for example, "R-1", "R-2", etc., or any planned development district that contains residential buildings.

RESIDENTIAL BUILDING: A building all or part of which contains one or more dwelling units, including single-family dwellings, two-family dwellings, multiple-family dwellings, lodging houses, mobile homes, dormitories, sororities and fraternities.

RESIDENTIAL DESIGN MANUFACTURED HOME: See Code of Ordinances, Section 20-16(5). (Ord. No. 1292, §1, 3-24-97)

RESIDENTIAL HIGH RISE: Any residential structure exceeding height limitations of those specified for R-4.

RESTAURANT: A public eating house, including but not limited to the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants and soda fountains. A drive-in restaurant is a restaurant where food and beverage is served at the vehicle parked on the premises.

RETAIL SALES: The sale of goods, merchandise, and commodities for use or consumption.

ROOMERS AND BOARDERS: Those that pay a stipulated sum in return for lodging, which may or may not also include meals. The maximum amount of roomers and boarders permitted shall be determined by occupant load and floor area regulations contained in the Building Code and Housing Code of Merriam.

SCREENING: Decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet in height.

SETBACK: The distance between the front lot line and the outside wall of the principal building on the lot.

SIDE LOT LINE: See Lot Line, Side.

SIDEYARD: See Yard, Side.

SIGN: Any writing (including letters, words, or numerals) pictorial representation (including illustrations or decorations), emblem (including devices, symbols or trademarks), flag, banner, streamer, pennant, string of lights or display calculated to attract the attention of the public or any other figure of similar character which: (see Section 3-309, also 8-501).

1. Is a structure or any part thereof, or a portable. display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground, and
2. Is used to announce, direct attention to or advertise, and:
3. Is not located inside the building.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, signs, billboards, sheds, towers and bins. For purposes of these Regulations, central air-conditioning condensing units and similar cooling system apparatus, other than so-called "window" or "room" conditions, shall be considered as structures.

SUBDIVISION REGULATIONS: The Subdivision Regulations ordinance of the City of Merriam.

TAVERN: An establishment in which the principal function is the selling or serving of beer having an alcoholic content of no greater than 3.2 percent by volume to customers for consumption on the premises.

TEMPORARY USE: See Section 5-201.

THEATER: A fully-enclosed building wherein motion pictures are shown to the public on a fee basis. Excludes live productions, live entertainment, plays and live musical productions. The content of motion pictures shall be governed by the Code of Ordinances of the City of Merriam, Kansas.

TRAILER: A vehicle standing on wheels or on rigid supports which is used for transporting boats, cargo or property.

USE: Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business, operation carried on or intended to be carried on in a structure or on a tract of land.

USE REGULATIONS: The provisions of these Regulations which identify permitted and conditional uses, impose use limitations, require adherence to performance standards and regulate home occupations and accessory and temporary uses.

VETERINARY CLINIC: A clinic designed to provide health care to small animals. All services must be conducted within the building. No kennels or dog runs shall be allowed outside the building.

VISION CLEARANCE AREA: A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of a triangle is a line across the corner of the lot joining the ends of the two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings walls, structures, or temporary or permanent obstructions between three and one half feet and seven feet in height measured from the top of the curb. See illustration in Section 3-411.

WHOLESALE SALES: The sale of goods, merchandise and commodities for re-sale.

WIDTH LOT: See Lot Width.

YARD: Open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for the permitted obstructions listed in Section 3-406.

YARD, FRONT: A yard extending along the full length of a front lot line and back to a line drawn parallel to the front lot line at a distance from there equal to the depth of the required front yard.

YARD, REAR: A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance from there equal to the depth of the required rear yard. In the case of a corner lot, there shall be no rear yard as defined, and in such case the sides opposite the street sides shall be considered as side yards for setback purposes.

YARD, SIDE: A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance from there equal to the width of the required minimum side yard, but excluding any area encompassed with a front yard or rear yard. Dimensions of minimum side yards specified in the district regulations of these Regulations refer to the required width of each side yard rather than to the width of both side yards, unless otherwise specified.

YMCA, YWCA, BOY SCOUTS, GIRL SCOUTS, CAMP FIRE GIRLS, AND OTHER SIMILAR GROUPS: An association formally organized for a common purpose, or interest, and operated not for profit for persons who are bona fide members, and which owns, hires or leases premises, the use of which premises is primarily utilized for the promotion of the common purpose or interest of the association. Food, meals and beverages may be served on such premises, provided adequate dining rooms space and kitchen facilities are available. No alcoholic beverages may be consumed, served or sold on the premises.

ZONING ADMINISTRATOR: The officer or other duly authorized representative charged with the administration and enforcement of the zoning regulations.

ZONING MAPS: The official zoning maps adopted by the City of Merriam.