

CODE OF ORDINANCES

CHAPTER 1

ARTICLE I. IN GENERAL

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Merriam, Kansas," and may be so cited. Such Code may also be cited as the "Merriam Code."

State law reference--Revision and codification of ordinances, K.S.A. 12-3014--12-3016.

Sec. 1-2. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be deemed to affect the validity of any of the following:

- (1) Any charter ordinance;
- (2) Any ordinance pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
- (3) Any ordinance opening, dedicating, widening, vacating or narrowing streets, avenues, alleys and boulevards;
- (4) Any ordinance establishing and changing grades of streets, avenues, alleys and boulevards;
- (5) Any ordinance naming or changing the names of streets, avenues and boulevards;
- (6) Any ordinance authorizing or directing public improvements to be made;
- (7) Any ordinance creating districts for public improvements of whatsoever kind or nature;
- (8) Any ordinance levying general taxes;
- (9) Any ordinance levying special assessments or taxes;
- (10) Any ordinance granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
- (11) Any ordinance authorizing the issuance of bonds and other instruments of indebtedness by the city;

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- (12) Any ordinance authorizing contracts;
- (13) Any ordinance relating to compensation of officials, officers and employees of the city;
- (14) Any zoning ordinance;
- (15) Any ordinance relating to subdivisions or approving any subdivision plat;

provided, that the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.

Sec. 1-3. Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, before the effective date of this Code.

Sec. 1-4. Amendments or additions to Code.

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any section, such repealed section may be excluded from the Code by omission from reprinted pages. Whenever any ordinance expresses the intent of the governing body that it be made a part of this Code and the same is thereafter included in a supplement to this Code, such inclusion shall have the same force and effect as if the ordinance had been included at the time of the original adoption of this Code by the governing body.

Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, City of Merriam, Kansas, is hereby amended to read as follows: . . ." The section, as amended, shall then be set out in full.

If a new section not heretofore existing in the Code is to be added, the following language shall be used : "That the Code of Ordinances, City of Merriam, Kansas, is hereby amended by adding a section, to be numbered _____, which said section reads as follows : . . ." The new section shall then be set out in full.

State law references--Amendments to looseleaf codes, K.S.A. 12-3015; amendatory ordinances generally, K.S.A. 12-3004.

Sec. 1-5. Supplementation of Code.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the governing body. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the governing body or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may :
- (1) Organize the ordinance material into appropriate subdivisions ;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections_____to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code) ; and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

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Sec. 1-6. Notice provisions; rebuttable presumption.

Whenever in this Code or in any ordinance of the City receipt of a notice, order or other written communication is required as a condition of enforcement, such notice, order or other written communication shall be delivered personally to the addressee or sent by certified mail, return receipt requested, to the last known address of the person or entity entitled to such notice, order or other writing. Unless otherwise provided by law, a notice, order or other written communication sent by certified mail shall be presumed received by the addressee ten (10) days after mailing and the condition of enforcement satisfied. Provided, however that such presumption of receipt shall be rebuttable upon proper proof. (Ord. No. 1278, § 1 10-28-96)

Sec. 1-7. General penalty of violation of Code; continuing violations.

Whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment as may be just for any one offense, recoverable with costs of prosecution. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. (Ord. No. 1278, § 1 10-28-96)

Secs. 1-8 Severability of parts of Code.

It is hereby declared to be the intention of the Governing Body that the sections, paragraphs, sentences, clauses and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph or section of this Code shall be held invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such holding shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code, since the same would have been enacted by the governing body without the incorporation in this Code of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section. (Ord. No. 1278, § 1 10-28-96)

Secs. 1-9--1-19. Reserved.

ARTICLE II. RULES OF CONSTRUCTION AND DEFINITIONS*

Sec. 1-20. Application of article.

In the construction of this Code, and of all ordinances and resolutions passed by the governing body, the rules set out in this article shall be observed and the definitions prescribed in this article shall apply, unless such construction would be inconsistent with the manifest intent of the governing body.

***State law reference**--Rules of statutory construction, K.S.A. 77-201.

Sec. 1-21. General rules of construction.

The provisions of this Code shall be liberally construed to effect the purposes expressed therein or implied from the expressions thereof. In case of doubt or ambiguity in the meaning of such provisions, the general shall yield to the particular. Reference for interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted. Words shall be construed according to the context and the approved usage of the language, but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed according to such meaning.

Sec. 1-22. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and, unless otherwise specifically provided, they shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

Sec. 1-23. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

Sec. 1-24. City.

The words "the city" or "this city" shall mean the City of Merriam, in the County of Johnson and the State of Kansas.

Sec. 1-25. City officers, departments, etc.

Whenever reference is made to an officer, department, commission or other agency, the same shall be construed as if followed by the words "of the City of Merriam, Kansas."

Sec. 1-26. Code.

The term "Code" or "this Code" shall mean the Code of Ordinances, City of Merriam, Kansas.

Sec. 1-26a Committees.

References to "Committees" in this Code shall mean standing or ad hoc committees reporting to the Governing Body. Reference to a specific Committee shall include successor Committees, regardless of the name of the successor Committee.

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Sec. 1-27. County.

The term "county" or "this county" shall mean the County of Johnson, Kansas.

Sec. 1-28. Gender.

A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations and corporations, as well as to males.

Sec. 1-29. Governing body.

The term "governing body" shall mean the Council of the City of Merriam.

Sec. 1-30. Joint authority.

Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

Sec. 1-31. K.S.A.

The letters "K.S.A." shall mean the Kansas Statutes Annotated.

Sec. 1-32. Land; real estate; real property.

The word "land" and the phrases "real estate" and "real property" include lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

Sec. 1-33. Month.

The word "month" shall mean a calendar month.

Sec. 1-34. Number.

Any word importing the singular number shall include the plural and any word importing the plural number shall include the singular.

Sec. 1-35. Oath.

The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

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Sec. 1-36. Or, and.

"Or" may be read "and," and "and" may be read "or," if the sense requires it.

Sec. 1-37. Parkings.

The word "parkings" shall mean the area between the roadway and right-of-way line.

Sec. 1-38. Person.

The word "person" shall extend and be applied to corporations, firms, partnerships and bodies politic and corporate as well as to individuals. Such word shall also include unincorporated clubs, sororities, fraternities, associations and organizations of whatever name and nature. Where criminal prosecution may lie, the officers of any corporation shall jointly and severally be subject to prosecution as being included within the term "person."

Sec. 1-39. Personal property.

The words "personal property" include money, goods, chattels, evidences of debt and "things in action."

Sec. 1-40. Preceding; following.

The words "preceding" and "following" mean next before and next after, respectively.

Sec. 1-41. Property.

The word "property" includes personal property and real property.

Sec. 1-42. Roadway.

The word "roadway" shall mean that portion of a street improved, designed or ordinarily used for vehicular traffic.

Sec. 1-43. Sidewalk.

The word "sidewalk" shall mean any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

Sec. 1-44. Signature or subscription.

The word "signature" or "subscription" shall include a mark when a person cannot write.

Sec. 1-45. State.

The words "the state" or "this state" shall be construed to mean the State of Kansas.

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Sec. 1-46. Street or highway.

The term "street" or "highway" shall include any highway, alley, street, avenue or public place or square, bridge, viaduct, underpass, overpass, tunnel and causeway in the city, dedicated or devoted to public use.

Sec. 1-47. Tense.

Words used in the past or present tense include the future as well as the past and present.

Sec. 1-48. Written or in writing.

The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise, except in those cases where the written signature or mark of any person is required.

Sec. 1-49. Year.

The word "year" shall mean a calendar year.