

CHAPTER 2

ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 2-1. City boundaries.

The overall city boundaries of the City of Merriam, Kansas, shall now be defined as follows:

Beginning at the northwest corner of Section 1, Township 12, Range 24, Johnson County, Kansas;

Thence east along the north line of said Section 1 to the northwest corner of Section 6, Township 12, Range 25, Johnson County, Kansas;

Thence south along the west line of said Section 6 to a point, said point being 395.24 feet north of the southwest corner of said Section 6;

Thence east 1332.24 feet more or less, to the northeast corner of Lot 30, Hickory Hills No. 2, a subdivision in Johnson County, Kansas;

Thence south 395.24 feet to the south line of said Section 6, Township 12, Range 24, Johnson County, Kansas;

Thence east 1252.85 feet, more or less, to a point on the north line of Lot 62, Goodman Heights, a subdivision in Johnson County, Kansas, said point being on the north prolongation of the center line of Lowell Road;

Thence south along the prolongation of the center line of said Lowell Road and along said center line of Lowell Road to a center line of Johnson Drive, said center line being the east-west center line of Section 7, Township 12, Range 25, Johnson County, Kansas;

Thence east 80 feet to the center of said Section 7;

Thence south along the north-south centerline of said Section 7 to the south right-of-way line of 61st Street;

Thence east 80 feet; Thence south 200 feet;

Thence west 80 feet to the north-south center line of said Section 7;

Thence south along said north-south center line to the center of Section 18, Township 12, Range 25;

Thence west on the east-west center line of said Section 18 to a point on the center line of Antioch Road, said point being the northeast corner of the southeast quarter of said Section 13, Township 12, Range 24;

Thence south along the east line of Section 13 and 24, Township 12, Range 24 to a centerline of 75th Street, said centerline being the east-west centerline of Section 24, Township 12, Range 24, Johnson County, Kansas;

Thence west along said east-west centerline of Section 24 to the southwest corner of the northwest quarter of said Section 24;

Thence north along the west line of Sections 24, 13, 12, Township 12, Range 24, to the south line of Lot 43, Fisher Highlands, a subdivision of land in Johnson County, Kansas, said south line also being the north line of the southeast 1/4 of the northeast 1/4 of Section 11, Township 12, Range 24;

Thence west along said north line to the east line of Hocker Grove North, a subdivision of land in Johnson County, Kansas;

Thence north along said east line and its prolongation to the north line of said Section 11;

Thence east along said north line to the southwest corner of Section 1, Township 12, Range 24;

Thence north along the west line of said Section 1 to point of beginning. (Ord. No. 1107, § 1, 12-17-90)

Sec. 2-2. City seal.

- (a) The seal of the city in the form on file in the office of the city clerk impress hereon is hereby adopted as the official seal of the city.
- (b) The city clerk shall keep the city seal safe and in his possession during his term of office, and deliver it to his successor when such successor has been duly appointed and qualified. (Code 1976, §§ 1-501, 1-502) (Ord. 1146, § 1, 11-16-92)

State law reference--City seal authorized, K.S.A. 12-101.

Secs. 2-3--2-20. Reserved.

ARTICLE II. GOVERNING BODY**Sec. 2-21. Regular meetings.**

The Governing Body shall hold regular meetings on the fourth Monday of each month at 7:00 p.m.; provided, however, that when the day fixed for any regular meeting shall fall upon a day designated by law as a legal or national holiday, or when otherwise deemed necessary or appropriate by the Governing Body, such meeting shall be canceled or rescheduled, following the passage of a resolution so indicating. There shall be at least one meeting of the Governing Body per month. All regular meetings shall be held in the council chamber at the Merriam city hall, 9000 West 62nd Terrace, Merriam, Kansas. (Code 1976, § 1-102; Ord. 1146, § 1, 11-16-92, Ord. 1439, § 1, 2-24-03, Ord. 1443, § 1, 5-12-03)

State law reference--Similar provisions, K.S.A. 14-111.

Sec. 2-22. Calling of special meetings.

The mayor shall call a special meeting of the Governing Body whenever, in his opinion, the public business may require it, or at the express written request of at least three (3) members of the Governing Body. (Code 1976, § 1-103)

State law reference--Regular council meetings, K.S.A. 14-111.

Sec. 2-23. Council president and acting council president.

- (a) Creation of offices. The offices of council president and acting council president (hereinafter referred to as "council vice president") are hereby created.
- (b) Elections by Governing Body; Term. The Governing Body shall elect from its membership a council president and council vice president; those so elected to such offices shall be a duly elected or appointed city councilmembers. Such election shall take place at the regular meeting of the Governing Body in April of odd-numbered years for a two-year term.
- (c) Temporary absence of mayor. The council president shall exercise the office of mayor in the temporary absence or disability of the duly elected mayor; when so exercising the office of mayor, the council president shall have no power to sign or veto any ordinance, nor appoint "appointed officers" pursuant to 2-37(A).
- (d) Temporary absence of mayor and council president. The Council vice president shall exercise the office of mayor in the temporary absence or disability of the duly elected mayor and council president; when so exercising the office of mayor, the council vice president shall have no power to sign or veto any ordinance, nor to appoint "appointed officers" pursuant to 2-37(A).

- (e) Vacancy in office of mayor. If a vacancy occurs in the office of mayor, other than a temporary absence or disability, the council president shall become mayor until the next regular city election by which the ballot deadline may be met. In such event, the Governing Body shall elect from its membership a new council president to serve the balance of the existing term. In the event the council vice president is elected to serve the balance of the council president's term, the Governing Body shall elect from its membership a new council vice president to serve the balance of the existing term.
- (f) Vacancy in office of council president. If a vacancy occurs in the office of council president, other than a temporary absence or disability, the Governing Body shall elect from its membership a new council president to serve the balance of the existing term. In the event that the council vice president is elected to serve the balance of the council president's term, the Governing Body shall elect from its membership a new council vice president to serve the balance of that existing term.
- (g) Vacancy in office of council vice president. If a vacancy occurs in the office of council vice president, other than a temporary absence or disability, the Governing Body shall elect from its membership a new council vice president to serve the balance of the existing term.
- (h) Removal. The Governing Body may remove the council president or council vice president from such positions by a two-thirds vote of the members of the Governing Body then in office. The positions of council president and council vice president which are vacated by such removal shall be filled in the same manner as set forth in subsection (f) and (g) above. (Ord. No. 775, § 1--4, 1-16-78, Ord. No. 1440, §1, 4-28-03).

State law reference--Similar provisions, K.S.A. 12-3003, 14-14, 14-308.

Sec. 2-24. Compensation.

- (a) There is hereby established a salary of Ten Thousand, Eight Hundred Dollars (\$10,800.00) per year for the office of mayor, payable at the rate of Nine Hundred Dollars (\$900.00) per month; said sum shall be paid each month until the mayor's term of office shall cease, or he or she is removed from office, or for any reason shall leave office. Said compensation shall be adjusted annually in the same percentage as adjustments made to employees' salary ranges. (Ord. No. 1305, § 1, 7-28-97; Ord. No. 1494, §1, 12-20-04)
- (b) There is hereby established a salary of Four Thousand, Eight Hundred Dollars (\$4,800.00) per year for the office of councilperson, payable at the rate of Four Hundred Dollars (\$400.00) per month; said sum shall be paid each month until the councilperson's term of office shall cease, or he or she is removed from office or for any reason shall leave office. Said compensation shall be adjusted annually

in the same percentage as adjustments made to employees' salary ranges. (Ord. No. 780, § 1, 3-20-78; Ord. No. 1001, § 1, 8-5-85; Ord. No. 1073, § 1, 12-5-88; Ord. No. 1135, § 1, 6-15-1992; Ord. No. 1305, § 1, 7-28-97; Ord. No. 1494, §1, 12-20-04)

Secs. 2-25--2-35. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

GENERALLY

Sec. 2-36. Personnel rules and regulations.

There shall be adopted for the purpose of establishing employee personnel rules and regulations for the City, an "Employee Handbook of Merriam, Kansas", prepared and published in booklet form by the City of Merriam, Kansas. Not less than three (3) copies of said personnel rules and regulations, as from time to time amended, shall be marked or stamped "Official Copy", and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. All departments of the City shall be supplied with official copies of such rules and regulations as may be deemed necessary. Such rules and regulations may be amended from time to time by Resolution of the City Council. (Ord. No. 773, § 1, 2-6-78; Ord. No. 1021, § 1, 7-21-86; Ord. No. 1134, § 1, 7-20-92; Ord. 1146, § 1, 11-16-92; Ord. No. 1232, § 1, 12-19-94; Ord. No. 1258, §1, 12-18-95; Ord. No. 1270 § 1, 5-20-96, Ord. No. 1311 § 1, 8-25-97, Ord. No. 1317 § 1, 11-24-97).

Sec. 2-37. Appointments.

(A) Appointment of appointed officers.

The Mayor, by and with the consent of the Council, shall appoint the following officers: municipal judge, city treasurer, city attorney, city prosecutor (hereinafter referred to as "Appointed Officers") as set forth in Charter Ordinance No. 20. The Appointed Officers shall hold office for a term of two years, from June 1 to May 31 of odd-numbered years. Vacancies shall be filled as set forth in Charter Ordinance No. 20 (Ord. No. 1358, §1, 6-28-99, Ord. No. 1442, §1, 3-24-03, Ord. No. 1497, § 1(A), 03-28-05).

(B) Appointment of department heads and other official staff positions.

The City Administrator and Mayor shall recommend appointment of all department heads and other official staff positions, including, but not limited to the following: (Ord. No. 1358, §1, 6-28-99, Ord. No. 1497 § 1(B), 03-28-05)

- Assistant City Administrator
- City Clerk
- City Engineer
- Community Development Director
- Director of Parks and Recreation
- Finance Director
- Fire Chief
- Local Freedom of Information Officer
- Police Chief
- Public Works Director

Said appointed officers, department heads and staff officials shall be approved by a majority vote of the Governing Body. (Code 1976, § 1-202; Ord. No. 1127, § 1, 4-20-92; Ord. No. 1146, § 1, 11-16-92; Ord. No. 1203, § 1, 6-27-94, Ord. No. 1259, §1, 12-18-95, Ord. No. 1315, §1 9-22-97, Ord. No. 1358, §1, 6-28-99, Ord. No. 1382, § 1, 07-24-00)

State law reference--Appointment and terms of officers, K.S.A. 14-201.

Sec. 2-38. Terms.

Except as provided in Section 2-41, the terms of all department heads shall be an indefinite terms, and/or until removed as provided herein. (Ord. 1127, § 2, 4-20-92)

Sec. 2-39. Removal of department heads.

Upon recommendation of the city administrator and/or the mayor, department heads may be removed by a majority vote of the Governing Body. (Ord. 1127, § 2, 4-20-92)

Sec. 2-40. Salary ranges for employees.

The salary range for employees shall be set by Governing Body resolution annually. Any annual adjustments to the salary ranges may be based on a review of several factors including but not limited to; the regional public and private sector labor markets and projected and actual range adjustments made in other cities in the region, costs of providing employee benefits, the City’s financial condition and the previous twelve month CPI as of October. It shall be the responsibility of the city administrator to evaluate and make pay adjustments to employee salaries pursuant to the city's personnel policy and within the adopted salary ranges. Such evaluations shall be conducted annually and salaries set for the ensuing year within the department’s budgetary appropriation. (Ord. No. 1127, § 1, 4-20-92; Ord. No. 1146, § 1, 11-16-92; Ord. 1398, §1, 11-27-00).

Sec. 2-41. Removal of appointed officers.

Appointed Officers may be removed from office as set forth in Charter Ordinance No. 20 (Ord. No. 1127, § 2, 4-20-92, Ord. No. 1497, § 2, 03-28-05).

Sec. 2-42. Salary for appointed officers.

Compensation for appointed officers shall be set by the Governing Body based upon the recommendation of the Mayor. This will be reviewed and established as part of the annual City budget. (Ord. No. 1127, § 2, 4-20-92, Ord. No. 1442, § 2, 3-24-03)

Secs. 2-43--2-45. Reserved.

CITY ADMINISTRATOR

Sec. 2-46. City Administrator.

There is hereby created and established the position of city administrator. The city administrator shall be appointed by the mayor by and with the consent of the Governing Body and shall be the administrative head of the City under direction of the mayor and Governing Body. The city administrator shall be appointed on the basis of qualification and ability to carry out the stated functions of the position and need not be a resident of the city. The city administrator shall be appointed by the mayor and Governing Body for an indefinite term, unless an employment agreement with a stated term in writing, is negotiated and executed. Upon recommendation of the mayor and two Councilmembers, the city administrator may be removed following a review by majority vote of the Governing Body. (Ord. No. 688, § 1, 4-19-76; Ord. No. 1127, § 3, 4-20-92, Ord. No. 1146, § 1, 11-16-92)

Sec. 2-47--2-48. Reserved.

Sec. 2-49. Functions.

Except as otherwise provided by law or the ordinances of the city the city administrator shall:

- (1) Manage, direct, control and supervise all the administrative departments and services of the city;
- (2) Recommend to the mayor and city council for hiring all department heads;
- (3) Supervise, direct and assign the duties of all department heads and employees;
- (4) Prepare and submit the annual budget to the Governing Body and keep the Governing Body fully, completely and timely advised as to the financial condition of the city;

- (5) Exercise general supervision and control over all city purchases and expenditures in accordance with the budget and such policies as may be established by the Governing Body;
- (6) Recommend to the Governing Body a schedule of salaries for all department heads and employees;
- (7) Have the care and management of all city-owned land, property, buildings and equipment;
- (8) Develop and prepare such planning, short-range as well as long-range, as the Governing Body shall request and shall submit such planning to the Governing Body for action;
- (9) Attend all meetings of the Governing Body and such other meetings of committees, commissions, and other organizations as the Governing Body shall designate and shall regularly report on the status of the city and its services to the Governing Body;
- (10) Make such recommendations to the Governing Body as are deemed necessary for effective administration of all city services;
- (11) Be responsible for the proper and efficient discharge of the duties of all city administrative officers and employees;
- (12) Perform such other duties as the Governing Body may direct. (Ord. No. 688, § 2, 4-19-76; Ord. No. 1146, § 1, 11-16-92)

Sec. 2-50. Orders and reports.

It shall be the general practice of the Governing Body to issue all orders and directives to all city officers and departments and receive reports and communiqués therefrom through the office of the city administrator. (Ord. No. 688, § 3, 4-19-76; Ord. No. 1127, § 3, 4-20-92)

Sec. 2-51. Review and compensation.

The city administrator shall receive such compensation as the Governing Body shall fix. There shall be at least an annual performance evaluation by the Governing Body and the Mayor. Any changes in the employment agreement with the city administrator shall require approval of the City Council. Such evaluation shall normally be conducted in December and salary for the ensuing year set. The salary for the city administrator shall be within the salary range as set forth and described in the city personnel policies. (Ord. No. 1127, § 4, 4-20-92; Ord. No. 1127, § 3, 4-20-92, Ord. No. 1368, §2, 12-20-99)

Secs. 2-52--2-65. Reserved.

ARTICLE IV. FINANCIAL AFFAIRS

GENERALLY

Sec. 2-66. Employee benefits contribution fund.

Repealed. (Ord. No. 819, § 1, 8-6-79; Ord. No. 1340, § IV, 8-24-98)

All funds held in the Employee Benefits Contribution Fund as of the date of this Ordinance shall be transferred to the City general fund. (Ord. No. 1340, § IV, 8-24-98)

Sec. 2-67. Temporary notes.

- (a) All temporary notes hereafter issued by the Governing Body for the purpose of financing needed internal improvements shall be authorized upon substantial evidence reviewed by the Governing Body, by resolution as they are needed. Said resolution shall set out the denomination of said temporary note, the date thereof, the interest rate to be paid to the purchaser, the place of payment of said temporary note, the maturity and the provision for paying said temporary note prior to its maturity.
- (b) All temporary notes hereafter issued by the Governing Body shall be substantially in the following form:

UNITED STATES OF AMERICA
 STATE OF KANSAS
 No. _____ COUNTY OF JOHNSON \$ _____
 CITY OF MERRIAM

TEMPORARY NOTE, SERIES NO. _____

KNOW ALL MEN BY THESE PRESENTS :

The City of Merriam, in the County of Johnson, State of Kansas, for value received, hereby acknowledges itself to be indebted and promises to pay to the bearer the sum of _____ DOLLARS (\$_____), in lawful money of the United States of America, on the ____day of _____ 19__, or when called for payment by written notice to the holder thereof or by publication once in the official City newspaper seven (7) days prior to the redemption date, at the rate of ____%, per annum, payable semi-annually until maturity, both principal and interest on this note being payable at the office of the City Treasurer of the City of Merriam, Kansas. The City of Merriam, Kansas, is held and firmly bound by these presents and its full faith and credit are hereby irrevocably pledged for the prompt payment of said principal and interest at maturity.

This note is issued by the City of Merriam, Kansas, for the purpose of paying part of the cost of _____ of said City, and is issued by the authority of and in full compliance with and conformity with the provisions, restrictions, and limitations of the constitution and laws of the State of Kansas, particularly K.S.A.

IN WITNESS WHEREOF, the City of Merriam, Kansas, has caused this note to be signed by its Mayor, attested by its City Clerk, and its corporate seal to be hereto affixed this ____ day of _____ 19____.

SEAL

Mayor

ATTEST:

City Clerk

STATE OF KANSAS)
) SS:
COUNTY OF JOHNSON)

I, the undersigned, City Clerk of the City of Merriam, Kansas, hereby certify that this temporary note has been duly registered in my office according to law.

WITNESS MY HAND and official seal this _____ day of _____ 19__.

SEAL

CITY CLERK

This Temporary Note shall not be negotiable unless and until counter-signed below following registration by the Treasurer of the State of Kansas.

SEAL

CITY CLERK

STATE OF KANSAS)
) SS:
COUNTY OF JOHNSON)

STATE TREASURER'S CERTIFICATE

I, the undersigned, State Treasurer of the State of Kansas do hereby certify that the full and complete transcript of the proceedings leading up to the issuance of the within temporary note has been filed in my office, and that the within temporary note was registered in my office according to law on the ____ day of 19____.

WITNESS MY HAND and official seal.

Treasurer of the State of Kansas

- (c) The mayor and city clerk shall be directed and authorized to execute each temporary note by the terms of the authorization resolution and said resolution shall further provide for the registration of said temporary note in the office of the city clerk and the state treasurer's office. Said resolution shall further provide for the delivery of said temporary note, after its sale, to the purchaser upon payment of the purchase price and accrued interest, if any. (Ord. No. 785, § 1-3, 4-17-78)

State law reference--Temporary notes, K.S.A. 10-123.

Secs. 2-68--2-85. Reserved.

OPEN PUBLIC RECORDS

Sec. 2-86. Statement of Policy.

It is hereby declared to be the policy of the City of Merriam that all public records which are made, maintained or kept by or are in the possession of the City, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act, K.S.A. 45-215, et seq., as from time to time amended (“Act”). As used herein, “open public records” or “public records” shall mean records, as defined by the Act, that are to be made available to the general public pursuant to the Act. (Ord. No. 968, § 1, 8-20-84, Ord. No. 1231 § 1, 12-19-94)

Sec. 2-87. Access.

Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.

- (a) All City offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any City office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record.
- (b) All City offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the City Clerk, being the principal record keeper of

the City, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the City Clerk except when the requested records are not in that office and are available in another City office. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-88. Procedures.

Any person requesting access to any open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the Governing Body for record inspection and copying, including those procedures established by record custodians and authorized by the Governing Body. Such procedures shall be posted in each City office keeping and maintaining open public records. The following procedures are hereby adopted and shall be applied by each official custodian and record custodian:

- (a) Consistent with the policy, duties and procedures established by the Act, all City record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records.
- (b) Record custodians shall adopt and apply open public record access and copy procedures consistent with the policies of the City and with the provisions of the Open Records Act. Specifically, such procedures will inform members of the public of the procedures to be followed in making a request for inspection or a copy of an open public record, including the hours during which record inspection or copy requests may be made; to whom a request is to be made; the forms to be completed in making a request; and the schedule of fees charged.
- (c) Record custodians shall adopt and apply procedures which will ensure the protection and preservation of public records with respect to the manner in which such records are inspected and copied.
- (d) Record custodians shall take necessary measures, not inconsistent with their duties, to provide full public access to open public records, and to ensure that the essential functions of the custodian's office, department or agency is not disrupted by requests for record inspection and copying.
- (e) All inspections and copying of open public records shall be performed by, or under the supervision of, the record custodian responsible for such records.
- (f) All persons requesting the inspection of or a copy of open public records shall make such request in writing prior to the request being honored, except that no form shall be required for requests made for records which have been reproduced for free public distribution.

- (g) Except as permitted otherwise by the record custodian, all record inspection and copying forms are to be completed by the person requesting the record. The record custodian may demand reasonable identification of any person requesting a record.
- (h) Any fees for record inspection or for copies are due at the time the records, or copies thereof, are provided to the requester, unless the record custodian has demanded that prepayment of all or part of such fees be made pursuant to Section 2-97. Fees are to be paid to the record custodian.
- (i) The record custodian shall notify the record requester, prior to commencing search of the record or copies thereof, of his or her estimate of the fee which will be made for honoring the request whenever such estimate exceeds \$100.00.
- (j) The record custodian shall determine and assess a charge covering mailing and handling costs accrued in responding to requests received and processed through the mail.
- (k) The record custodian may exercise his or her discretion to reduce or waive any inspection or copying fees when such is in the public interest.
- (l) Removal of open public records from the office where kept and maintained, for purposes of inspection and/or the making of copies shall be permitted only with the written permission of the record custodian.
- (m) The above procedures, as well as any other inspection and copying procedures shall be posted in a conspicuous place in the office of the record custodian. (Ord. No. 1231 §1; 12-19-94)

(Ord. No. 1583 § 1, 11-26-07).

Sec. 2-89. Procedures Regarding Inspection of Open Public Records.

The following procedures regarding inspection of open records are hereby adopted and shall be applied by every official custodian and record custodian:

- (a) Record custodians shall handle all inspection requests in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.
- (b) All request forms must be completed by the party requesting the record. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodian and presented to the record custodian.
- (c) A written request is sufficient if it reasonably describes the record sought. In instances where the requester cannot provide sufficient information to identify a record, the custodian shall assist in making such identification.
- (d) No inspection fee shall be charged the requester if the actual cost of locating the records pursuant to the request is less than \$4.00 or, in the case of multiple requests brought by the same person or on behalf of the same person, where the actual cost of locating the records pursuant to requests made over a 24-hour period is less than \$4.00.
- (e) No inspection fee will be assessed when a denial of the request is made. The record custodian shall, upon making a denial of an inspection request, forward a copy of the denial to the City Attorney. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-90. Procedures Regarding Copies of Open Public Records.

The following procedures regarding copies of open records are hereby adopted and shall be applied by each official custodian and record custodian:

- (a) Record custodians shall handle all copy requests in accordance with their duties to protect and preserve public records and to assist persons requesting copies of open public records.
- (b) All request forms must be completed by the party requesting the copies. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodian.
- (c) Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that all available means of mechanically reproducing the subject record are likely to cause damage to such record.

- (d) No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when the record custodian determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge.
- (e) No copying fee will be assessed when a denial of a request is made. The record custodian shall, upon making a denial of a copying request, forward a copy of the denial to the City Attorney. (Ord. No. 1231 §1; 12-19-94)

Secs. 2-91 Appointment of Official Custodians.

The following City officers are hereby appointed as official custodians for purposes of the Act, and are hereby charged with responsibility for compliance with the Act with respect to the following listed public records:

City Clerk - All public records kept and maintained in the Administrative Services office and all other public records not provided for elsewhere in this Section.

Department of Parks and Recreation - All public records not on file in the office of the City Clerk and kept and maintained in the Parks and Recreation Department.

Chief of Police - All public records not on file in the office of the City Clerk and kept and maintained in the City Police Department.

Fire Chief - All public records not on file in the office of the City Clerk and kept and maintained in the City Fire Department.

City Attorney - All public records not on file in the office of the City Clerk and kept and maintained in the City Attorney's office.

Director of Public Works - All public records not on file in the office of the City Clerk and kept and maintained in the Public Works Department.

Clerk of the Municipal Court - All public records not on file in the office of the City Clerk and kept and maintained in the Municipal Court.

Director of Community Development - All public records are not on file in the office of the City Clerk and kept and maintained in the Community Development Department. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-92. Designation of Additional Record Custodians.

- (a) Each of the official custodians described in Section 2-91 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the City Clerk of such designation and the City Clerk shall maintain a register of all such designations. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-93. Duties of Custodians.

All City officers and employees appointed or designated under this Chapter shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the City; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this City for inspecting and copying open public records. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-94. Fee Administration.

The City Clerk is hereby authorized to provide the Clerk's office with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit to the City Clerk a Charge Slip of fee moneys to be collected for copies of public records. Each custodian shall maintain duplicates of all Charge Slips and copy request forms, completed as to the amount of fee charged, which amounts shall be periodically audited by the Clerk and Treasurer of the City. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-95. Inspection Fee.

- (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.
- (b) In all cases not covered by subsection (a) of this section, a per hour record inspection fee as set forth on the schedule of fees described in Section 2-110 shall be charged. A minimum charge as set forth on said schedule of fees shall be charged for each such request. (Ord. No. 1231 §1; 12-19-94; Ord. No. 1381 §1; 07-24-00)

Sec. 2-96. Copy Fee.

- (a) A fee of ten cents (\$0.10) per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment. (Ord. No. 1231 §1; 12-19-94, Ord. No. 1436 §1; 1-27-03)
- (b) For copying any public records which cannot be reproduced by the City's photocopying equipment, the requester shall be charged the actual cost to the City, including staff time, in reproducing such records. (Ord. No. 1231 §1; 12-19-94, Ord. No. 1436 §1; 1-27-03)

Sec. 2-97. Prepayment of Fees.

- (a) A record custodian may demand prepayment of the fees established by this division whenever he or she believes this to be in the best interest of the City. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.
- (b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed one hundred dollars (\$100.00).
- (c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-98. Payment.

All fees charged under this division shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the City. All fees received shall be paid to the City Clerk whenever the cumulative amount of fees collected totals one hundred dollars (\$100.00) or more, but not less than monthly. (Ord. No. 1231 §1; 12-19-94)

Sec. 2-99. Records Management Program.

To ensure the appropriate retention, maintenance and preservation of the records of the City, Administrative Regulation Number 1 of the City establishing a Records Management Program, as from time to time amended, is hereby adopted by this reference. Copies of such Regulation shall be maintained by the City Clerk for public inspection and shall be distributed to all records custodians and their designees. Unless otherwise provided in the Act or this ordinance, said Regulation shall govern the management of records by the City. (Ord. No. 1231 §1; 12-19-94)

SPECIAL LAW ENFORCEMENT TRUST FUND

All funds held in the Special Law Enforcement Trust Fund as of the date of this Ordinance shall be transferred to the City general fund. (Ord. No. 1339, § IV, 8-24-98)

Sec. 2-100. Establishment, purpose and intent.

Repealed. (Ord. No. 1071, § 1, 12-5-88; Ord. No. 1339, § IV, 8-24-98)

Sec. 2-101. Deposits.

Repealed. (Ord. No. 1071, § 1, 12-5-88; Ord. No. 1339, § IV, 8-24-98)

Sec. 2-102. Expenditures.

Repealed. (Ord. No. 1071, § 1, 12-5-88; Ord. No. 1339, § IV, 8-24-98)

Sec. 2-103. Reserved.**ARTICLE V. CODE OF ETHICS****Sec. 2-104. Declaration of Policy.**

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the citizens; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a Code of Ethics for all Merriam officials and employees is hereby adopted. The purpose of this Code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or omissions that are incompatible with the best interests of the City and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the City.

Sec. 2-105. Purpose.

The purpose of this Code of Ethics is to:

- A. establish standards of conduct expected of those persons who act for or on behalf of the public in the performance of governmental duties and responsibilities;
- B. maintain high ethical standards in Merriam City Government;
- C. increase public confidence in the integrity of the officials, agents and employees of Merriam.

Sec. 2-106. Definitions.

- A. Interest means direct or indirect pecuniary or material benefit accruing to a public officer or employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the City except for such contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.

For purposes of this Code, a public officer or employee shall be deemed to have an interest in the affairs of:

1. Any person related to him or her by blood or marriage as spouse, parent, child, grandchild, grandparent or sibling of any of such persons, and a divorce or separation between spouses shall not be deemed to terminate any such relationship.
 2. Any person or business entity with whom a contractual relationship exists with the public officer or employee.
 3. Any business entity in which the public officer or employee is an officer, director, employee or member having a financial interest.
 4. Any business entity in which the stock of, or legal or beneficial ownership of, in excess of five percent (5%) of the total stock or total legal and beneficial ownership is controlled or owned directly or indirectly by the public officer or employee.
- B. Official act or official action means any legislative, administrative, appointive or discretionary act of any officer or employee of the City or any agency, board, committee or commission thereof.
- C. Business entity means any business, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust or corporation.
- D. Public officer or employee means any person, officer or employee holding a position by election, appointment or employment in the service of Merriam, whether paid or unpaid, including; members of any board, committee or commission thereof.

Sec. 2-107. Ethical Code.

Every official, whether elected or appointed, and every employee in Merriam government service is expected to maintain the following standards:

- A. Always put loyalty to high moral standards and to Merriam above any loyalty to persons, department or agency, or political or other interests.
- B. Uphold the Constitution, laws and regulations of the United States, the State of Kansas, and the City of Merriam and never be a party to their violation or evasion.
- C. Seek to find and employ more efficient and economical ways to provide service and give to the performance of his or her duties their best attention, efforts and thoughts.
- D. Treat every citizen fairly and equally with courtesy and respect and must never discriminate unfairly by dispensing special favors or privileges to anyone, whether for remuneration or not, and should never accept favors or benefits under circumstances which might give the appearance to reasonable persons as influencing the performance of his or her governmental duties.
- E. Refrain from making any promise, private in nature, the performance of which would require an act beyond the proper scope of the duties of his or her office, or to act in a manner which would or could compromise the integrity of his or her office, or to accept for himself or herself or family, favors or benefits under circumstances which might give the appearance to reasonable persons as influencing the performance of his or her governmental duties.
- F. Never engage in any business with the City government, either directly or indirectly, which is inconsistent with the conscientious performance of his or her governmental duties.
- G. Never use any confidential information in the performance of governmental duties as a means for making a private profit or gaining benefit; and never reveal any information made known through his or her public office which is by law confidential or by custom a protected right of privacy where revealing the information could affect the civil or moral rights of any citizen.

EXAMPLES

1. Councilperson A learns through an Executive Session how much the City is willing to pay for a building. Councilperson A's son, a realtor, is told the information by Councilperson A and subsequently negotiates a contract for the highest amount the City is willing to pay. This would violate paragraph 7 of the Code of Ethics.
2. A developer submits a development plan, and a question arises whether brick or aluminum siding should be used on the exterior. Councilperson B's family owns a siding business that intends to bid on the project if

siding is required. Councilperson B should abstain from discussion or voting on the issue (paragraph 11, Code of Ethics).

3. A paving contractor offers to repair a City employee's driveway as part of the street overlay program for no (or minimal) cost. To accept such work would be a violation of paragraphs 4, 10 and 11 of the Code of Ethics.
 4. The City Administrator receives a gift certificate for \$500.00 from a city vendor; the gift certificate should be returned to avoid violation of paragraph 10 of the Code of Ethics.
 5. Councilperson C sells office supplies. Councilperson C can bid for the City business or provide to the City a price list, so long as the bid or price list is not prepared through the use of confidential information and is a competitive bid. Councilperson C must refrain from lobbying the procurement officer or suggesting that if the bid is not accepted the procurement officer could have job action taken. Such conduct would violate paragraph 6 of the Code of Ethics.
 6. In connection with the purchase of a computer, a City employee is invited to visit the factory where a brand of computers are made in California for a demonstration. The computer company will pay all expenses. So long as the expenses paid are for basic transportation and housing, together with routine meals, no violation of the Code of Ethics takes place. If however, first-class air fare is provided, extraordinary entertainment offered or unusual gratuities are provided, the employee should notify the company that such items are inappropriate and should not be accepted. Otherwise, a violation of paragraph 10 of the Code of Ethics takes place.
 7. The City Attorney and members of his or her firm should at no time represent a private client in proceedings before the City at any level. If a private client is involved in proceedings in the City, the City Attorney must advise the proper authorities, and must refrain from giving advice to the private client or the City on the matter. Arrangements should be made by the City Attorney to have the City and the client represented by qualified, independent attorneys if legal advice is required.
- H. Always safeguard the public trust and never use or allow the use of government property or funds for private purposes, for purposes other than those authorized or permitted, or for purposes which could mislead the citizens or damage the confidence and reputation of the government.
- I. At all times, display the highest level of integrity in performing his or her duties and never knowingly nor negligently mislead or allow others to mislead the public or other government officials nor fail to disclose or report to appropriate officials any corruption wherever discovered.

- J. Avoid the appearance of improper influence and refrain from ever receiving, soliciting or accepting gifts, gratuities, favors or anything of value for himself, his or her family or others, which is intended or has the appearance or affect of influencing the performance of his or her duties; and should never lobby or attempt to influence others in the performance of their duties by any means which are not a part of his or her authorized duties.
- K. Never allow his or her judgment to be compromised by a personal, family or business interest not a part of his or her government service and never act upon any matter in which he or she, his or her family, or business has or may have any financial or beneficial interest; and should always declare and disclose the full nature and extent of any personal, family, or business interest in any matter related to governmental actions or duties.
- L. Stand as a representative of the government and the public trust and never intentionally act outside the scope of his or her authority in that representation nor allow himself or herself to be perceived as acting on behalf of the public or government when, in fact he or she is not.

Sec. 2-108. Interpretation and guidelines.

The Code of Ethics is intended to establish standards to guide the decisions and actions of the public officials and employees in the performance of their official duties and functions. The standards established by the Code are rules of reason and not rules of law, and they do not themselves seek to impose duties or obligations not otherwise required of public officials and employees. Rather, the standards seek to recognize the expectations inherent in government service through public opinion and perception and to define the special responsibilities that arise through the representation and authority of government. Likewise, the Code does not attempt to exhaust the moral and ethical values that must guide government actions, nor does it displace professional knowledge, skill or judgment. No set of rules or standards can do so, and every person in government service must also be guided by personal conscience and the independent ideals of their profession, as well as the legal duties imposed upon him or her. These standards, therefore, should be interpreted with reference to the purposes of government service and the unique stature of public professionalism.

Any public officer who serves on a board where an agenda item appears in which the public official has a direct or potential financial interest shall make known that interest to the Chairperson prior to discussion of that topic. The public officer shall remove himself/herself from the discussion, leave the room and not return until the item is tabled or acted upon. The affected public officers shall not vote on such item.

Sec. 2-109. Sanctions for violations.

For any violation of the Code of Ethics, the following enforcement actions may be taken:

- A. For employees of the City:
 - 1. a written warning or reprimand be issued by the City Administrator pursuant to the personnel policies; or
 - 2. suspension, demotion or termination of the employee by the City Administrator pursuant to the personnel policies; or
 - 3. a complaint be filed at the direction of the City Council for action with the law enforcement officials; or
 - 4. the matter be dismissed by the City Administrator for lack of cause.

- B. For elected officials of the City:
 - 1. a public censure or reprimand be issued; or
 - 2. a complaint be filed for action with the law enforcement officials; or
 - 3. the matter be referred to the State Attorney General for consideration; or
 - 4. the matter be dismissed for lack of cause.

- C. For appointed officials of the City, persons acting as representatives of the City or City Administrator:
 - 1. a public censure or reprimand be issued; or
 - 2. removal from the office or position, or termination of any contract, agreement or representative status; or
 - 3. a complaint be filed for action with the law enforcement officials; or
 - 4. the matter be dismissed for lack of cause.

Actions taken under (B (1-3) and (C) (1-3) above shall be at the direction of the City Council after review in executive session, and upon motion duly made, seconded and passed by a majority (with the Mayor entitled to vote). In the event motion(s) to take action on a matter fail, or a motion is passed to take no action, the matter will be dismissed for lack of cause.

GENERAL SERVICES

Sec. 2-110. Fees for services.

Section 2-110. Fees for services.

Fees for services in the City of Merriam, Kansas shall be as set forth in a schedule to be included in the Code Book and available in the administrative office of city hall. Such fees, except as otherwise noted in such schedule, shall be reviewed by the Governing Body annually and adjusted if deemed necessary and equitable. (Ord. No. 1346 § 1, 1-25-99; Ord. No. 1348 § 1, 2-22-99; Ord. No. 1486 § 1, 10-25-04)

ARTICLE VI. REVOCATION OF PERMITS AND LICENSES**Section 2-111. Revocation of Permits, Procedure**

- (A) Except as otherwise pre-empted by State or Federal law, or otherwise prescribed by the Code of Ordinances, the following shall govern the revocation of permits and licenses issued by the City of Merriam, Kansas. (Ord. No. 1355 § 2, 4-26-99)
- (B) Basis For Revocation.

Any permit or license granted by the City shall be subject to revocation for any or all of the following reasons:

1. Non-compliance with any applicable requirement set forth in the applicable Code Section(s) that include authorization of the issuance of such permit or license, or in the permit or license as issued.
2. Non-compliance with any special conditions imposed at the time of issuance of the permit or license.
3. Violation of any provisions of the Code pertaining to the activities permitted by the permit or license, including but not limited to use of the permit or license in furtherance of or to commit a crime.
4. Discontinuance of the issuance of the same or substantially similar permit or licenses generally by the City on the basis of safety, health or welfare of the public.
5. Violation of any other applicable Code provisions or any state or federal law or regulation by the permittee, licensee or agents thereof, provided that such violations relate to the conduct or activity authorized by the permit or license or the qualifications of the permittee, licensee or agents thereof to engage in such conduct or activity.
6. Change or circumstances of the permittee or licensee, or the agent thereof, which result in the permittee or licensee being no longer eligible to hold the permit or license.

C. Procedure For Revocation

1. Revocation proceedings may be initiated by a majority vote of the Governing Body.
2. Unless the permittee or licensee agree in writing that the permit or license may be revoked, the Governing Body shall hold a public hearing to consider the revocation of the permit or license.
3. The City shall give the permittee or licensee notice of the scheduled revocation hearing at least five days prior to the date scheduled for such hearing. If the permittee or licensee are present at the meeting of the Governing Body at which the revocation proceedings are initiated, no further notice shall be required; otherwise, notice shall be given by personal service or certified mail, return receipt requested. If the notice cannot be delivered or is not accepted, notice may be given by publishing a notice of hearing in the official City newspaper and by posting a notice of hearing on the property at least five days prior to the date scheduled for the hearing.
4. At the hearing, the City Attorney, or his or her designee, shall present the evidence known to the City that may justify revocation of the permit or license. Testimony may be presented by members of the City staff or Planning Commission, or by such other witnesses as may be called. Following the presentation of evidence by the City, any person having relevant evidence may present such evidence to the Governing Body. Following the presentation of such evidence, the permittee and landowner shall be entitled to present evidence, including testimony. Following the receipt of all evidence, the public hearing shall be closed. After closing the public hearing, the Governing Body may hear closing statements from the City and the permittee or licensee or the attorney therefor. The Governing Body may render its decision following such closing statements or may take the matter under advisement.
5. No permit or license shall be revoked unless a majority of the Governing Body is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion for the revocation shall state the grounds for revocation. Adoption of any motion to revoke a permit or license may be made subject to subsequent adoption of written findings of fact and conclusions of law, at the discretion of the Governing Body.
6. An appeal of any decision of the Governing Body to revoke a permit or license shall not suspend the order or revocation during the pendency of the appeal unless so ordered by the Johnson County, Kansas District Court. (Ord. No. 1355 § 2, 4-26-99)