

CHAPTER 19

PARKS AND RECREATION

ARTICLE I. IN GENERAL

Sec. 19-1. Definition; operating hours of parks.

- (a) As used in this Chapter, the term “park” shall include all parks, Parcourses and hiking and biking trails owned or operated by the City for use by the public.
- (b) All parks shall be open for use by the public between the hours of dawn and dusk.
- (c) All parks shall be closed for use by the public between the hours of dusk and dawn; provided, however, parks may be closed temporarily or opening hours extended temporarily in case of emergency, special events, adverse weather conditions, or unusual circumstances as determined and ordered by the Chief of Police or the Director of Parks and Recreation.
- (d) Any person in a park during the hours such park is closed to the public may be charged with a violation of the Code of City Ordinances. (Ord. No. 858, §§ 1, 2, 9-15-80; Ord. 1202, § 1, 7-25-94; Ord. 1242 §1, 5-22-95)

Secs. 19-2. Parcourse, Hiking and Biking Trails.

Any paved trail within parks shall be used only by pedestrians. On Hiking and Biking Trails, bicyclists and skaters shall be allowed. Parcourses shall be used only for walking, running and exercising. Persons who operate bicycles or who skate or skateboard on designated paved trails shall yield right-of-way to pedestrians. Pedestrians shall move to the right and allow room for oncoming traffic and for faster same-direction traffic to pass. (Ord. 1242 §1, 5-22-95)

Sec. 19-3. Dogs, Cats, and Other Animals.

All dogs, cats, and other domesticated animals shall be leashed and kept under control while in a park. (Ord. 1242 §1, 5-22-95)

Sec. 19-4. Swimming, Bathing, Wading.

Swimming, bathing, and wading shall be prohibited in Turkey Creek and its tributaries within parks. (Ord. 1242 §1, 5-22-95)

Sec. 19-5. Alcoholic Liquor and Cereal Malt Beverages.

It shall be unlawful for any person to drink or consume, or to have in his or her possession an open container of, any alcoholic liquor or cereal malt beverage within the boundaries of any City park.

1. Exceptions. Cereal malt beverages may be sold at the following City-owned Parks pursuant to a temporary cereal malt beverage permit issued according to the provisions of Chapter 3, and cereal malt beverages, beer, wine and champagne may be served, dispensed and consumed at the following City parks, provided that such serving, dispensing and consumption shall be in accordance with written rules and regulations approved by the Governing Body, and subject to the provisions of Chapter 3:
 - a. Irene B. French Community Center, 5701 Merriam Drive
 - b. Merriam Historic Plaza, Shawnee Mission Parkway at Eby
 - c. Merriam Marketplace, 5750 Merriam Drive

(Ord. 1242 §1, 5-22-95, Ord. No. 1422, § 2, 5-20-02; Ord. No. 1523, § 1, 02-27-06).

Sec. 19-6. Firearms and Weapons.

Except as provided in subsections (a), (b) below, no person shall discharge, use or carry, within the boundaries of Park Facilities, any firearm, air gun, spring gun, blank gun, slingshot, or any other weapon in which force is used to propel projectiles.

- (a). This section shall not apply to law enforcement officers who are authorized by law to carry a firearm.
- (b). This section shall not apply to other persons who are authorized by law to carry a firearm for the performance of their official duties, when said persons are performing their official duties. (Ord. 1242 §1, 5-22-95)

Sec. 19-7. Hunting.

Except as provided in subsections (a) and (b), below, no person shall in any manner pursue, catch, kill, trap or molest any wildlife within the boundaries of a park. Furthermore, except as also provided in subsections (a) and (b) below, no person shall remove or take any wildlife from the boundaries of a park.

- (a). This section shall not apply to law enforcement officers or city employees who are acting within the scope of their official duties.
- (b). This section shall not apply to lawful fishing and frogging. (Ord. 1242 §1, 5-22-95)

Sec. 19-8 Vandalism and Collection.

Except as provided in subsection (a), below, no person shall destroy, alter, damage, injure or remove any real or personal property that belongs to the city, or any vegetation, ruins, relics or geological formations found within the boundaries of any park.

- (a). This section shall not apply to persons who are engaged in scientific or educational collection and who possess and are in compliance with specific prior written permission obtained from the City Director of Parks and Recreation. (Ord. 1242 §1, 5-22-95)

Sec. 19-9. Fires.

Building of fires shall be restricted to privately owned ovens, grills and stoves, and to ring pits and grills, which are provided. No fire shall be left unattended. Building of fires may be prohibited by authority of the City Director of Parks and Recreation or Fire Chief, or their designees. (Ord. 1242 §1, 5-22-95)

Sec. 19-10. Refuse Disposal/Littering.

While in a park, all persons shall properly dispose of refuse and trash in receptacles provided for such purpose. No person shall transport any refuse into any park for the purpose of disposal therein. (Ord. 1242 §1, 5-22-95)

Sec. 19-11. Amplified Sound.

Only those persons who possess a permit from the city and who are acting in conformity with the terms and conditions of said permit, or otherwise have permission of the City, shall be allowed to emit amplified sound within the boundaries of a park. (Ord. 1242 §1, 5-22-95)

Sec. 19-12. Signs.

Posting of signs shall be prohibited except in accord with the provisions of any permit issued by the city. (Ord. 1242 §1, 5-22-95)

Sec.19-13. Solicitations.

No person shall solicit or advertise for sale within the boundaries of any park, any product, item or service except as provided under the terms and conditions of a permit issued by the city. (Ord. 1242 §1, 5-22-95)

Sec. 19-14. Demonstrations, Exhibitions, Special Events.

Demonstrations, exhibitions and special events must first be approved by the Parks and Recreation Board, pursuant to policies duly adopted by said Board prior to their occurrence. Written application must be made to the Park and Recreation Board at least 45 days in advance of the proposed demonstration, exhibition or special event. (Ord. 1242 §1, 5-22-95)

Sec. 19-15. Tennis Court, Outdoor Volleyball and Outdoor Basketball Courts.

Specific rules regarding play at outdoor courts shall be posted at each facility. (Ord. 1242 §1, 5-22-95)

ARTICLE II. PARK AND RECREATION BOARD**Sec. 19-16. Created.**

There is hereby created a city park and recreation board. (Code 1976, § 13-201)

Sec. 19-17. Members.

The city park and recreation board shall be composed of seven (7) members, one from each of the four city wards and three members appointed at-large. Members of the board shall be appointed by the mayor with the confirmation of the governing body. The term of appointment shall be two years commencing on January 1 and ending on December 31 with no more than (4) appointments expiring each year. Members of the board serve at the pleasure of the mayor. Vacancies shall be filled by appointment for the unexpired term. (Code 1976, § 13-201, Ord. No. 1463, §1, 1-26-04)

A quorum shall consist of four (4) members. The board shall conduct business only in the presence of a quorum. If, however, only a majority of a quorum (three (3) members) is in attendance at a board meeting, such members may discuss issues on the agenda and receive input from staff members so long as no action is taken on such matters. (Ord. No. 1463, §1, 1-26-04)

Sec. 19-18. Functions.

The city park and recreation board shall:

- (a) To make plans and recommendations to the governing body relating to the operation of the city parks and swimming pools.
- (b) To make plans and recommendations to the governing body relating to the need for additional recreational programs and facilities.
- (c) To meet with interested civic groups and other park and recreation authorities in the planning and study of recreation programs and facilities on a local and area-wide basis. (Code 1976, § 13-202)

Secs. 19-19--19-30. Reserved.

ARTICLE III. CITY SWIMMING POOL

Sec. 19-31. Generally.

The municipal swimming pool shall be open to the residents of the city and others as enumerated herein subject to such rules and regulations herein contained and as the governing body may from time to time authorize and as provided by the rules and regulations of the state board of health or its successor agency. (Code 1976, § 13-101)

Sec. 19-32. Persons who may be excluded.

The manager appointed as provided for herein is hereby authorized, directed and empowered to refuse admission to any person applying for admission to said municipal pool who is intoxicated or under the influence of drugs or opiates, or any person having infectious or contagious skin disease, open sores or cuts. (Code 1976, § 13-105)

Sec. 19-33. Operating hours.

The hours during which the swimming pool shall be open for use shall be determined by the governing body. The pool manager shall have the authority to close the pool during inclement weather or periods of limited demand or in case of emergency, and it shall be unlawful for any person to enter the water of said pool except when the manager or a life guard is in charge of the same and on duty. (Code 1976, § 13-110)

Sec. 19-34. Violations.

Any person violating any of the provisions of this Article may be charged with a violation of the Code of Ordinances; provided that nothing herein shall be construed to deny the authority of the pool manager or his/her designee to exclude a person therefrom whose conduct is not in accordance with the rules governing the operation of the swimming pool. (Ord. 1242 §2, 5-22-95)

Sec. 19-35. Memberships and daily fees.

Single and household memberships shall be sold to residents and non-residents of Merriam on an annual basis. A photo identification card will be required for admittance by each member. It shall be unlawful for any person to whom an identification card is issued for admittance to the municipal pool, to transfer or sell same to any other person.

A maximum of 200 non-resident household memberships will be available each year.

A daily fee shall be charged at the pool to all persons who have not purchased an annual membership.

Membership fees and daily fees may be increased as necessary. (Ord. 1242 §2, 5-22-95)

Waiver for city officers, employees, etc...

It shall be the policy of the city to provide the use of the municipal pool to full-time and part-time employees, volunteer firemen, members of the governing body and members of the following appointed city boards (Park and Recreation Advisory Board, Tree Board, Planning Commission, Board of Zoning Appeals) and their immediate family members with the charges and fees to be waived under the conditions hereinafter stated.

Such individuals shall make application for an annual pool membership upon standard forms. Identification cards shall be issued to employees and their family members upon payment of identification card fee. There shall be no charge for identification cards for the governing body or council committee members. Authorized use of the pool facilities shall be discontinued following resignation or termination of city employment or resignation from council or city committees. (Ord. 1242 §2, 5-22-95)

ARTICLE IIIA. COMMUNITY CENTER

Sec. 19-36. Generally.

The community center shall be open to the residents of the city and others as enumerated herein and as the governing body may from time to time authorize. (Ord. 1242 §3, 5-22-95)

Sec. 19-37. Persons who may be excluded.

The Community Center Director, or his/her designee, is authorized, directed, and empowered to refuse admission to said community center to anyone who is intoxicated or under the influence of drugs or opiates or who is in violation of any other community center rules. (Ord. 1242 §3, 5-22-95)

Sec. 19-38. Violations.

Any person violating any of the provisions of this Article may be charged with a violation of the Code of Ordinances, provided, that nothing herein shall be construed to deny the authority of the Community Center Director, or his/her designee, to exclude a person therefrom whose conduct is not in accordance with the rules governing the operation of the community center.

A listing of specific rules governing the operation of the community center shall be reviewed as necessary by the Park and Recreation Advisory Board. (Ord. 1242 §3, 5-22-95)

Sec. 19-39. Operating Hours.

The hours during which the community center shall be open for use shall be determined by the governing body. The Director or his/her designee shall have the authority to close the facility or cancel programs during inclement weather, emergencies or periods of limited demand. (Ord. 1242 §3, 5-22-95)

Sec. 19-40. Health Club Memberships and Fees.

Health club memberships shall be sold for the use of the community center weight room and open gym to residents and non-residents of Merriam.

A daily fee shall be charged for the use of open gym or weight room to all persons who have not purchased a membership.

Health club membership fees and daily fees may be increased as necessary.

Waiver for city officers, employees, etc...

It shall be the policy of the city to provide the use of the health club to full-time and part-time employees, volunteer firemen, members of the governing body, and members of the following appointed City boards (Park and Recreation Advisory Board, Tree Board, Planning Commission, Board of Zoning Appeals) and their immediate family members with the charges and fees to be waived under the conditions hereinafter stated.

Such individuals shall make application for a health club membership upon standard forms. Identification cards shall be issued to employees and their family members upon payment of identification card fee. There shall be no charge for identification cards for the governing body or council committee members. Authorized use of the health club facilities shall be discontinued following resignation or termination by employees, or by resignation from City Council or City boards. (Ord. 1242 §3, 5-22-95)

Sec. 19-41. Community Center Program Fees.

User fees shall be established for all community center programs and activities and may be increased as necessary. (Ord. 1242 §3, 5-22-95)

Sec. 19-42. Room Rentals.

Community Center rooms shall be available for rental to the public when not otherwise occupied by Community Center or other City-sponsored programs. Rules and regulations pertaining to the use of the facility by rental groups are established by the governing body. Individuals and groups desiring rental rooms or space shall make application on forms approved by the Director.

Fees shall be charged to all individuals or groups who reserve community center rooms. Fees shall be established by the governing body and may be increased as necessary. Room or space rental fees shall not be charged for City-sponsored events.

It shall be permissible for nonprofit groups to sell cereal malt beverages at Community Center rental functions subject to the requirements of Chapter 3, Article II, Section 3-32 of the Code of Ordinances. Consumption, without sale, of cereal malt beverages and/or alcoholic beverages at Community Center rental functions shall be at the discretion of the Director or his/her designee. (Ord. 1242 §3, 5-22-95)

Sec. 19-43--19-50. Reserved.

ARTICLE IV. TREE BOARD

Sec. 19-51. Creation.

There is hereby created a Tree Board to prescribe regulations relating to the planting and maintenance of trees, shrubs and all other plantings upon city-owned property, to promote the beautification of the city, the protection of the public health and safety and to provide for the preservation and removal of diseased trees, shrubs and plantings. (Ord. No. 990, § 1, 4-1-85; Ord. No. 1341, § IV, 8-24-98)

Sec. 19-52. Creation and Establishment.

The Tree Board for the City of Merriam, Kansas shall consist of seven (7) members, all of whom shall be residents of Merriam, without regard to ward residency. Members shall be appointed by the Mayor with the approval of the Governing Body to serve a two (2) year term commencing April 1 of odd numbered years. The terms of those individuals who were appointed prior to April 1, 2007 shall expire on March 31, 2007. In the event a vacancy should occur during the term of any member, his or her successor shall be appointed in the same manner for the unexpired portion of the term of the vacant position. (Ord. No. 990, § 1, 4-1-85; Ord. No. 1028, § 1, 11-3-86; Ord No. 1076, § 1, 4-17-89; Ord. No. 1341, § IV, 8-24-98; Ord. No. 1544, § 1, 07-24-06)

Sec. 19-53. Purpose.

The purpose of the Tree Board shall be to advise the Governing Body of needed tree/shrub plantings and/or care and maintenance of trees/shrubs on city-owned property. The Tree Board shall have no power to bind the City of Merriam. (Ord. No. 1341, § IV, 8-24-98)

Sec. 19-54. Compensation.

Members of the board shall serve without additional compensation; however, board members recommended and approved to represent Merriam at Tree Board related conferences may be reimbursed for expenses incurred such as mileage, registration, meals and lodging. (Ord. No. 990, § 1, 4-1-85; Ord. No. 1341, § IV, 8-24-98)

Sec. 19-55. Duties and responsibilities.

It shall be the responsibility of the board to study, investigate, counsel and develop a written plan to provide a guide for the proper planting and maintenance of the trees/shrubs on city-owned property, including the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. It shall further be the responsibility of the board to oversee the compliance outlined in Articles IV & V of city ordinances, to report violation to the Governing Body for enforcement and also to recommend needed changes in the provisions of these articles.

Upon completion of said plan it shall be presented to the governing body for approval. Thereafter, the board shall review and update as necessary said plan and submit the same annually to the governing body prior to January 1st of each year for approval. The board shall recommend needed budget allocations for accomplishment of agreed upon projects and shall recommend projects for inclusion in the city capital improvement program. The board in accordance with said plan shall control all planting, pruning and removal of all trees located within the street right-of-ways, easements, alleys and parks of the city using the Merriam Public Works staff and Parks and Recreation Department.

Any owners of land abutting such right-of-ways, easements, alleys and parks may, when acting within the provisions of this article and the approved plan, prune, spray, plant, or remove trees in that part of such street right-of-ways, easements and alleys abutting his or her land not used for public travel. Any owner of property intending to deviate from the provisions of this article must first secure written approval from the board, Parks and Recreation and Public Works departments.

The Board, when requested by the governing body, shall consider, investigate, make findings, and report upon any matter coming within its scope of work. (Ord. No. 990, § 1, 4-1-85; Ord. No. 1341, § IV, 8-24-98)

Sec. 19-56. Advisors.

The governing body of the City of Merriam may designate or employ, with or without compensation, such advisors to the tree board as the governing body shall hereafter determine to be necessary and advisable to accomplish the purposes of this article. One Council member will be appointed to act as an ongoing advisor to the Board. (Ord. No. 990, § 1, 4-1-85; Ord. No. 1341, § IV, 8-24-98)

Sec. 19-57. Meetings, rules and regulations.

The tree board shall meet at such times and places as it shall agree upon, or upon call by the governing body, and upon formation shall appoint its own officers and prepare recommended rules and regulations relating to its meetings and proceedings, subject to approval of the governing body, and shall keep minutes of its meetings and provide a copy thereof to the

governing body. A majority of the members of the tree board shall be sufficient as a quorum for the transaction of business of the board. (Ord. No. 990, § 1, 4-1-85)

ARTICLE V. REGULATION OF TREES, SHRUBS AND OTHER WOODY VEGETATION

Sec. 19-58. Definitions.

For purposes of this chapter the following definitions shall apply:

- (a) *Paved Surface.* All areas within public rights-of-way covered with asphalt, concrete, or other permanent hard surface including streets, roadways, highways, curbs, sidewalks and storm drainage facilities.
- (b) *Street Trees.* Trees, shrubs, and all other woody vegetation located within public rights-of-way.
- (c) *Large Trees.* Trees, shrubs, and all other woody vegetation with a potential mature height of 55 feet or more.
- (d) *Medium Trees.* Trees, shrubs, and other woody vegetation with a potential mature height of 25 to 55 feet.
- (e) *Small Trees.* Trees, shrubs, and other woody vegetation with a potential mature height of less than 25 feet.
- (f) *Tree.* A woody plant having a well defined stem or trunk, a more or less definite crown, a height at maturity of at least eight feet, and the mature trunk diameter exceeding two inches.
- (g) *Shrubs.* A low, usually several-stemmed, woody plant.
- (h) *Property Owner.* Person owning such property as shown by public records on file at the Office of the Johnson County Register of Deeds. (Ord. No. 1341, § V, 8-24-98)

Sec. 19-59. Distance From Paved Surface.

No tree shall be planted within three feet of any paved surface, including sidewalks. Medium trees shall be planted at least 4 feet from any paved surface, including sidewalks. Large street trees and those that are not shall be planted at least 5 feet from any paved surface, including sidewalks. No shrub or woody vegetation shall be planted in the right-of-way within three feet of any paved surface.

Sec. 19-60. Sight distance; Fireplugs.

- (a) The areas as defined in Section 3-411 "Vision Clearance Triangle" of the Merriam Zoning Ordinance shall remain free of shrubs which exceed a height of two feet measured from the roadway.
- (b) No tree, shrub, or woody vegetation shall be planted within a distance of 10 feet from any fireplug.

Sec. 19-61. Residential Traffic Islands, Thoroughfare Rights-of-Way; Planting Restrictions.

No trees, shrubs, woody vegetation, or other landscape improvements over two feet in height will be permitted on residential traffic islands or thoroughfare rights-of-way unless approved by the Committee.

Sec. 19-62. Planting Near Overhead Utilities.

No trees other than those species defined as small trees in this ordinance may be planted under or within 15 lateral feet of any overhead primary or secondary utility wire. No medium or large trees shall be planted under or within 30 lateral feet of any overhead primary or secondary utility wire. (Ord. No. 1341, § V, 8-24-98)

Sec. 19-63. List of Street Trees; Prohibited Trees.

- (a) Except those trees described in this Section a), no specie of tree may be planted as a street tree without prior written permission from the Tree Board. No such permission shall be granted for the planting of any tree specifically prohibited by subsection b) of this provision or prohibited by Section 19-63.
 - 1. Small Trees (to 25 feet)
 - Amur Maple (*Acer ginnala*)
 - Flowering Pear (*Pyrus callergana*)
 - Eastern Red Bud (*Cercis canadensis*)
 - Thornless Cockspur Hawthorn (*Crataegus crus-galli*)
 - Centurian Crabapple (*Malus*)
 - 2. Medium Trees (25 feet to 55 feet)
 - Goldenraintree (*Koelreuteria paniculata*)
 - White Ash
 - a) "Rosehill" (*Fraxinus americana*)
 - b) "Autumn Purple" (*Fraxinus americana*)
 - Hackberry, "Prairie Pride" (*Celtis occidentalis*)
 - River Birch (*Betula nigra*)

Littleleaf Linden, “Greenspire” (*Tilia cordata*)
 Honeylocust, “Imperial” (*Gleditsia triacanthos*)
 Ginkgo, autumn “Goldorha Keoreau” (*Ginkgo biloba*)
 Oak, “English” (*Quercus robur*)
 Pine, “Austrian” (*Pinus*)

3. Large Trees (55 feet and up)

Maple

- a) Green Mountain Sugar (*Acer saccharum*)
- b) Red Sunset, Red (*Acer rubrum*)

Oak

- a) Northern Red (*Quercus rubra*)
- b) Burr (*Quercus macrocarpa*)
- c) Chinkapin (*Quercus muehlenbergii*)

Sweetgum, Gold Dust (*Liquidambar styraciflua*)
 Baldcypress (*Taxodium distichum*)
 Cottonwood – no seeds (*Papulus delfordes*)

(b) Prohibited Street Trees.

1. Fir (*Abies spp.*)
2. Persimmon (*Diospyros virginiana*)
3. Mimosa (*Albizia julibrissin*)
4. Russian Olive (*Elaeagnus angustifolia*)
5. Osage Orange (*Maclura pomifera*)
6. Cottonwood (*Papalus spp.*)
7. Edible Fruit Trees
8. Green Ash (*Fraxinus pennsylvanica*)
9. Mulberry (*Morus spp.*)
10. Spruce (*Picea spp.*)
11. Pine (*Pinus spp.*)
12. London Planetree (*Platanus acerifolia*)
13. Sycamore (*Platanus occidentalis*)
14. Cottonwood (*Populus spp.*)
15. Pear, “Bradford Pear” (*Pyrus calleryana*)
16. Willow (*Salix spp.*)

(Ord No. 1341, §V, 8-24-98)

Sec. 19-64. Removal and maintenance of trees by City; When Notice Required.

- (a) Whenever the City shall determine that removal or trimming of a tree or shrub within a right-of-way, that is not an immediate hazard, is necessary, the City shall notify the property owner in writing by certified mail, or personal delivery of the required date of removal or trimming of said tree or shrub, however not less than thirty days (30) days prior to such required removal date. The notice shall describe the property, describe the tree or shrub to be trimmed or removed, state the reason for the required removal or trimming, advise property owner of opportunities for relocation, and inform the property owner that a hearing may be requested, in writing, before the City Community Development Committee, or successor committee, should the property owner object to the removal or trimming. The City or the property owner may appeal, in writing within ten days following the decision of the Committee, to the City Council. If the property is vacant, or is known not to be occupied by the owner, the City may send notice to the last known address of the property owner, or post said notice on the property. Any tree or shrub removal or trimming will be at the property owner's expense, unless the Community Development Committee, or successor committee, or the City Council determines that the City should pay for some or all of such expense.
- (b) Notice of removal or trimming, shall not be required when the City shall determine that the existing condition of the tree or shrub constitutes an immediate hazard to the public health, safety and welfare or otherwise determines that the condition endangers persons or property. A reasonable effort shall be made to notify the property owner prior to removal or trimming of the tree or shrub. Such work shall be done at the owner's expense unless the Community Development Committee, or successor committee, determines that the City should pay for some or all of such expense.
- (c) The cost of removing and trimming trees and shrubs within the right of way, when the responsibility of the owner, shall be paid within thirty (30) days after notification of such cost by the City, together with an administrative charge of twenty-five dollars (\$25.00). In the event such costs and charge are not so paid, the same may be assessed and collected as a lien on the property from which the tree or shrub was trimmed or removed. The procedure for making such assessment and lien shall be substantially the same as the procedure set forth in Section 18-22.
- (d) Vegetation that jeopardizes or interferes with utility lines or cables shall be referred to the appropriate utility company for its attention and action, which action shall be taken without cost to the City or the property owner.
- (e) These provisions are not intended to interfere with the enforcement or interpretation of any other ordinance or law concerning rights-of-way or the removal of vegetation.

Sec. 19-65. Abutting Property Owners, Duty to Maintain.

Property owners abutting rights-of-way, as defined herein, shall be responsible for maintaining trees, shrubs, and other woody vegetation within such rights-of-way in a manner which promotes safe and healthy plants and which protects the health, safety, and welfare of the public. Said property owners shall not allow such plants to hinder or obstruct the rights-of-way or to create a nuisance as defined in the Code of Ordinances. Further, the provisions contained in this chapter shall not exempt or otherwise waive any other duties and responsibilities imposed upon such property owners by the Merriam Code of Ordinances.

Sec. 19-66. Dead Trees and Tree Limbs on Private Property.

To ensure safety and to promote the public welfare and rights of others, property owners and occupants of private property shall be responsible for the removal and proper disposal of dead trees and tree limbs; provided however, that nothing herein contained shall prohibit the storage of firewood, in compliance with the Code of Ordinances. Tree limbs and other yard waste shall be disposed of pursuant to the solid waste provisions of the Code of Ordinances. (Ord No. 1284, §1, 2-24-97)

Sec. 19-67 Penalties and Violation; Civil Actions.

- (a) It shall be unlawful for any person to prevent, hinder, or otherwise interfere with designated municipal officials or employees in their performance of their respective duties under the provisions of this chapter. Further, it shall be unlawful for any person to plant or otherwise maintain a new growth of a tree, shrub, or woody vegetation in an area where such planting is prohibited by this chapter.
- (b) Any person who violates any of the provisions of this chapter is guilty of a public offense and upon conviction shall be fined and/or sentenced in accordance with Section 1-6 of the Merriam Code of Ordinances.
- (c) The City of Merriam may further enforce the provisions of this chapter by maintaining an action in the appropriate court for injunction to enforce the provisions of this chapter; to cause correction of any such violation; for assessment and recovery of civil damages for such violation; or to pursue other appropriate civil remedy. (Ord No. 1284, §1, 2-24-97)