MERRIAM CITY COUNCIL AGENDA  
CITY HALL  
9001 WEST 62ND STREET  
APRIL 9, 2018  
7:00 P.M.  
Active Shooter training at 6:15 pm

If you require any accommodation (i.e. qualified interpreter, large print, reader, hearing assistance) in order to attend this meeting, please notify the Administrative Office at 913-322-5500 no later than 24 hours prior to the beginning of the meeting.

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. PUBLIC ITEMS

Members of the public are encouraged to use this time to make comments about matters that do not appear on the agenda. Comments about items on the regular agenda will be taken as each item is considered. Please note: individuals making Public Comments will be limited to 5 minutes.

IV. CONSENT AGENDA

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separately.

1. Consider approval of the minutes of the City Council meeting held March 26, 2018.

2. Consider approval of the relocation of playground equipment from Vavra to Waterfall Park.

3. Consider approval of the appointment of Christopher Mann as Merriam City Prosecutor.

4. Consider accepting the dedication of easements shown on the Monica Estates Final Plat located at 6624 Eby Place.

V. MAYOR’S REPORT

1. Employee Service Awards-2nd Quarter 2018.


4. Deb Settle- Northeast Johnson County Chamber of Commerce Annual Update.

VI. PLANNING COMMISSION


2. Consider approval of an ordinance amending Chapter 14-Business and Business Regulations of the Merriam Code of Ordinances. (recommend waiving first reading)

3. Consider approval of revisions to the 2018 Schedule of Fees.

VII. COUNCIL ITEMS

A. Finance and Administration

1. Community Center Update.


B. Community Development/Public Works/CIP

1. Community Development Update.

VIII. STAFF ITEMS

VIII. NEW BUSINESS

IX. EXECUTIVE SESSION

X. ADJOURNMENT

Respectfully submitted,

Juliana Pinnick
Juliana Pinnick
City Clerk
I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

Mayor Ken Sissom called the meeting to order at 7:00 pm.

II. ROLL CALL

Scott Diebold  
Al Frisby  
Chris Evans Hands  
Nancy Hupp  
Bryan Knaff  
David Neal  
Bob Pape  
Robert Weems

Staff present: Chris Engel, City Administrator; Meredith Hauck, Assistant City Administrator; Cindy Ehart, Finance Director; Kevin Bruemmer, Public Works Director; Nicole Proulx Aiken, City Attorney; Anna Slocum, Parks and Recreation Director; Bryan Dehner, Fire Chief; Mike Daniels, Police Chief; Bryan Dyer, Community Development Director, and Juli Pinnick, City Clerk.

III. PUBLIC ITEMS

Members of the public are encouraged to use this time to make comments about matters that do not appear on the agenda. Comments about items on the regular agenda will be taken as each item is considered. Please note: individuals making Public Comments will be limited to 5 minutes.

IV. CONSENT AGENDA

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separately.

1. Consider approval of the minutes of the City Council meeting held March 12, 2018.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEM 1. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.
V. MAYOR’S REPORT

1. Legislative Update- Stuart Little

Stuart Little, City’s Lobbyist, provided an update regarding legislative actions taking place in Topeka.

2. Promotion of Police Officer Vincent Rock to Master Police Officer.

Police Chief Mike Daniels presented the promotion to Master Police Officer to Vincent Rock.

VI. PLANNING COMMISSION

1. Consider approval of an ordinance amending Home Occupation regulations.

Mayor Sissom made a few comments about this item.

There has been a lot of discussion about this item in the community and at the Planning Commission meeting. The Planning Commission held their public hearing on this item on March 7. The public was notified of the Planning Commission meeting through our normal procedures. The Planning Commission is a group of Merriam citizens with the exception of one at-large member. The members are appointed by the Mayor. Their duties include holding public hearings to consider applications for property rezoning, and to propose amendments to the City’s Zoning Ordinances. As required by city ordinance, once the Planning Commission has completed their task, they send the ordinance to the City Council with a recommendation for passage. The City Council will hear a presentation from city staff to discuss the particulars of the ordinance. This will be the first time the City Council has publicly discussed this ordinance. It is customary to allow citizens present to provide comments and also to ask questions. The council will then either vote to approve the ordinance, deny the ordinance. If the Council votes to deny the ordinance, then the matter is complete. The City Council could also vote to send the ordinance back to the Planning Commission with specific instructions on what they want to change.

If this item is sent back to the Planning Commission, they will discuss it and decide what changes will be made, if any. Once that is completed the ordinance comes back to the City Council for reconsideration. Tonight, is the opportunity for the City Council to hear about, discuss, and ask questions about this ordinance. To ensure that this process is organized and fair, the Mayor will institute the following process: Part 1 will be presentation by staff this is expected to take approximately 45 minutes to 1 hour to complete.
Mayor Sissom asked the council to make note of their questions during the presentation and be prepared to ask those questions after staff’s presentation. Part 2 will be questions and comments from the City Council. Part 3 will be questions and comments from the citizens. Part 4 will be final question from the City Council for follow up questions and answers that may be raised by the citizens. At the end of part 4 will be the time for the council to take action on this item.

Community Development Director Bryan Dyer presented an overview of the changes to the Home Occupation regulation as recommended by the Planning Commission.

On February 7, 2018, the Planning Commission discussed revising Merriam’s existing home occupation regulations to make them simpler, clearer, and easier to understand.

On March 7, 2018, the Planning Commission conducted a Public Hearing on an ordinance revising the home occupation standards contained in Chapter 74. Following a number of comments made during the Public Hearing, the Planning Commission unanimously recommended approval of the ordinance with two revisions. The revisions were allowing websites as part of vehicle signage and adding back in the ability to have monthly group meetings.

Using those comments, staff drafted the proposed ordinance revising the city’s home occupation regulations. Staff has provided two copies of the ordinance; one copy showing the changes and one “clean” copy.

While the structure and format of the revised regulations has greatly changed, most of those changes were to clarify and simply the regulations.

The following is a summary of the substantive changes to the home occupation regulations:

Home occupations to be considered an accessory use in residential districts.

Home occupations to be reviewed by staff, not Planning Commission.

Type I home occupations (previously home occupations) can have one non-resident employee.

Type I home occupations can have up to 10 visitors in a day and up to three visitors at one time.

Type I home occupations that have on-site visitors or a non-resident employee must provide a site plan showing the location of off-street parking for visitors and employee.

Type I home occupations must still notify property owners within 200 feet, but the notification can be done by First-Class mail.
Type II home occupations (previously home office) do not require notification of property owners within 200 feet

Type II home occupations can occur within any residential dwelling unit

Request City Council to exempt Type II home occupations from the Merriam Occupation License requirement

Staff will recommend to the City Council that Type II home occupations continue to not pay a permit submittal fee. Additionally, staff will recommend that the Council revise the Merriam Occupational License regulations to exempt Type II home occupations from having to obtain a Merriam Occupational License.

It should be noted that the changes apply only to NEW home occupations. Existing home occupations with a valid conditional use permit can continue operating under the previous regulations.

The following is a more in-depth review of the proposed revisions to the home occupations regulations.

As previously mentioned, home occupations as defined in Merriam’s current home occupation regulations will be called “Type I home occupation” and Home Office will now be termed “Type II home occupation.”

Type I home occupation means a business, profession, occupation or trade conducted by residents, wholly or in part, within a single-family dwelling or a two-family dwelling unit residential building or within a structure accessory to a single-family or a two-family residential building. Examples include, but are not limited to: counseling, tutoring, musical instruction, contractor office, and hair cutting/styling.

Type II home occupation Home office means a home occupation in which residents use their residence as a place of work and have involving no customers or employees on the premises or no storage of goods for sale on premises and no the storage of tools or equipment for use on or use off premises. A Type II home occupation is where the residence serves as the resident’s primary office and can occur in any typical dwelling unit. Examples include, but are not limited to: writer, accountant, consultant, and computer programmer.

Additional clarification language was added to both definitions. For Type I home occupations, language regarding single-family and two-family dwelling units and examples were added. For Type II home occupations, language was added allowing Type II home occupations in any dwelling unit and clarifying that it has to be the resident’s primary office before it would be considered a home office. Examples of Type II home occupations were also added.

Staff has summarized the remaining revisions into three categories – No Change, Clarification, and New.
Use limitations for Type I and Type II home occupations

No Change:
No visible or audible evidence of the home occupation shall be apparent. This includes storage of goods, materials, equipment, etc.

Clarification:
Vehicle signage is limited to three signs with each individual sign being no larger than six square feet.
Home occupations are not allowed commercial trash or regular dumpster service.
Repair of vehicles and large equipment not owned by the resident is prohibited.
Home occupations cannot be headquarters or dispatch centers where employees come to the home occupation and are dispatched to other locations.
No funeral or interment services, animal services, boarding house or hotels.
Trailer parking in conformance with city code is allowed.

New:
Deliveries and pick-ups can only be done by vehicles that normally service a residential neighborhood. Deliveries by vehicles with more than two axles or by trailer is prohibited.

Type I home occupations

No Change:
A permit is required to operate a home occupation.
Notice must be sent to property owners within 200 feet of the home occupation.
Home occupations can occur in single-family residence.

Clarification:
If there will be visitors or a non-resident employee, the home occupation must provide a site plan showing the location of off street parking for visitors and the employee provides specific language for the notices sent to neighbors.
Ties the home occupation to the specific address, type of home occupation, and resident operating the home occupation.
Up to 10 customers or clients can visit the home occupation in a day and up to three customers or clients may be in the home occupations one time.
On site retail sales must be ancillary to the primary service provided at the home occupation.
No more than one Type I home occupation per dwelling unit. A separate Type II home occupation permit is allowed.

New:
Approval of the home occupation does not go before Planning Commission. Staff, if appropriate, approves the home occupation permit.
200-foot notification can be done via First Class Mail, no return receipt requested.
One non-resident employee is allowed.
Can occur in a two-family dwelling.

**Type II home occupations**

*No Change:*
A permit is required to operate a home occupation.
No permit fee.
Home occupation shall be conducted by the resident with no outside assistance, no customers or employees shall visit the home occupation, and no retail sales or wholesale can be conducted at the home occupation residence.

*Clarification:*
A Type II home occupation may operate multiple Type II home occupations under one permit.

*New:*
No required notification of neighbors.
Type II home occupations can occur in any typical dwelling unit.
Request City Council to exempt Type II home occupation for needing a Merriam Occupational License.

**Type I and Type II home occupation renewals**

*No Change:*
Permit renews automatically every five years unless there is a complaint, violation, or change in the status of the home occupation.
No permit renewal fee.

*New:*
If there is a complaint, violation or change in the status of the home occupation, staff reviews the home occupation renewal instead of Planning Commission.

**Complaints and permit revocation**

*No Change:*
Complaints regarding a home occupation are made to the Community Development Department.
If a home occupation is in violation of City Code and after notice of the violation does not correct the violation, staff can revoke the home occupation permit.

**Appeals**

*No Change:*
A person that is denied a home occupation permit or has their permit revoked can appeal that decision to the Planning Commission.
There was discussion among the council regarding the Type II Home Occupation regulations and the minimal impact to the neighborhood compared with the impact someone with a woodworking hobby that does not require an occupational license would have on a neighborhood.

Mr. Dyer commented that when a hobby becomes a significant source of income, then those folks would need to get an occupational license. He further commented that the advantage of requiring occupational licenses for Type II (Home Office) is that it gives staff an opportunity to talk with the applicant and let them know what the rules and expectations are when operating a business from their home.

Additionally, parking is often an issue with any home occupation and when staff receives complaints regarding parking issues at a particular residence or complaints of people coming and going from the residence all day then staff begins an investigation of that complaint. It becomes a bad situation when staff discovers they are operating a home business and have employees or customers visiting their home and then are told that is not allowed, they have to go through the process to obtain a home occupation permit, which under the current regulations takes 45-60 days then it can really affect their livelihood.

Councilmember Neal commented that people who are working from home on their computers are doing nothing different that folks who are on their personal computer on Facebook or other social media applications with the exception that they are generating an income from being on their computer. Mr. Neal asked Mr. Dyer to clarify that since these people are earning an income being on their computer why this activity if different from a zoning perspective.

Mr. Dyer replied that the Municipal Code is what makes that distinction between the two activities. If there is a desire by the council to not make those folks get a license that is something the council has the authority to change. This request can be sent back to the Planning Commission for them to review. Staff recognizes that the codes need to be updated and ultimately want a code that is clear can be enforced equitably.

Councilmember Neal provided some examples of words in the proposed ordinance that appear to be subjective and not very clear. He feels that the code should be written in a manner that would not require folks to have to come in and talk to staff to make a determination which type of home occupational license they need or if they need one at all.
Councilmember Frisby expressed concerns about limiting the monthly gatherings on Type II businesses to one per month. He suggested increasing that provision to allow two per month and allowing a non-resident employee like the Type I licenses.

Mayor Sissom reminded the council that many of the items that the council is commenting about are already in the code, and this new ordinance is trying to improve the regulations. The council has the authority to change the regulations currently in place as well as the proposed regulations. Staff is not directing these changes to fit their needs they are simply wanting an ordinance that they can enforce as that is their job. The job of the council is to make the regulations enforceable.

Councilmember Pape disclosed that he currently holds a license for a Home Occupation. He manages rental property that he owns in another city and does this from his home. Because councilmember Pape has a personal interest in this legislation, he spoke with the City Administrator to clarify if he would have a conflict of interest and need to recuse himself from the discussion and action. Mr. Engel has assured councilmember Pape that there was no conflict however he wanted to disclose this information.

Councilmember Pape commented that the Planning Commission and staff have spent many hours on this and it is much better than the current regulations. Because the way the current regulations are, he was required to obtain an occupational license. From the discussion on impact to the neighborhood appears that Type II businesses really have no impact on the neighborhoods. Councilmember Pape asked Mr. Dyer how many complaints he receives regarding home occupations in a year.

Mr. Dyer responded that for Type I businesses there are about 6-7 complaints per year. Type II, maybe 1 per year. The major complaints on the Type I businesses are auto repair and contractors in the neighborhoods.

Councilmember Pape further commented that based on that information and the discussion here tonight he is wondering if there is even a need to have Type II licenses. He indicated that he would like the Planning Commission to look at this again.

Councilmember Weems commented that he personally as a nurse can do nursing anywhere; he does not have to work at a hospital. He can teach and do this out of his home at night or on the weekends. He feels that the regulation put people in a position of how honest they want to be with their city and feels that it really is not anyone business what he does out of his home unless if affects his neighbors.
Councilmember Hands asked if the other surrounding cities that were looked at in comparison for their regulations differentiate between the two types of licenses, home office vs home occupations.

Mr. Dyer responded that none of the cities on the list have the two types of licenses.

Sam Matier, 8515 W. 57th St. commented that he is pleased with the discussion tonight by the council and hopes that the Type II licensing requirement is on the way out. Mr. Matier feels that the current and proposed laws try to solve a problem that does not exist. While Mr. Matier agrees that the proposed regulations will make the process easier and less expensive, he still feels that Type II licenses should be eliminated. Mr. Matier asked the council to reject the proposed regulations. He suggested the council form their own committee, and not receive input from city employees on this matter, as that is the council’s job, is to make policy; the job of the staff is to support the city council.

James Lipistal, resides at seal cottage on 61st St. east of Lamar, commented that most of his questions have been answered tonight and he is satisfied with the answers. If the city is trying to establish how much of a home is being used for a business, a tax return could be requested to verify that information as it would list what portion of the home expenses are being written off in their itemization. Further, he asked if the city council falls under the home occupation umbrella as they are working at home, as city employees answering emails with their laptops. Would they be required to obtain a permit?

Mr. Dyer indicated that to fall under the home occupation rules the city councils job would have to be a primary source of income. It would most likely not be their primary source of income.

Dennis Miles, 9213 W. 48th St, owner of Sta-Safe Locksmith, Mr. Miles has a home occupation permit for his business even though he conducts all of his business within his van or at the customers site. All his equipment required for his business is located within his van. While he understands the requirement to have a permit, as it allows the city to know that he is doing business. However, he is not sure what type of home occupation he has, a Type I or a Type II. He has no customers come to his house, no materials in his house, but they are on his property in his van. Signage is a concern for Mr. Miles as his signs on his van are larger than six square feet. He feels that a smaller sign would cause a disadvantage for competition of other locksmiths. He feels there should be no size restrictions on vehicle signage.

Billy Crook, 6633 Wedd St. commented that he feels it is unfair to restrict the number of visits to a home occupation but, there are no restrictions for people having social
events and other gatherings at their homes. Parking restrictions are acceptable for those having a home business as it will protect the integrity of the neighborhood. Mr. Crook does not support the licensing of Type II business and they are not observable outside the home, do not impact the neighborhood and the permitting process is cumbersome. Mr. Crook feels that Type II business make neighborhood safer by just having someone at their home every day and also reduce pollution by not commuting daily. The tools and equipment prohibition in the proposed ordinance is unfair and unclear as a laptop, tripod or other small items could be considered a tool or piece of equipment. He further does not support the prohibition of outside assistance by non-residents for the Type II businesses. Mr. Crook feels that the floor space restriction is unenforceable and capricious as well he feels certain terms used in the proposed ordinance are ambiguous. While Mr. Crook appreciated the time staff and the Planning Commission has spent trying to modernize the regulations he feels it should be repealed all together and put the focus on the nuisance behaviors in the neighborhoods.

Phillip Kline, no address given, commented that he feels a lot of this is being covered under the homes association and feels it is being taken away from the homes associations. Mr. Kline asked the City Attorney if this regulation passed constitutional muster.

The City Attorney responded that it does pass constitutional muster 100 per cent.

There was some discussion among the council regarding sending this item back to the Planning Commission to review the removal of the permitting on Type II licenses while maintaining the guidelines, definitions and descriptions in the code to provide clear and concise information for folks operating a Type II home occupation.

Councilmember Neal expressed his opinion there may be legal ramifications if city staff rejected an application for a home occupation permit, particularly a Type II that had minimal impact on the neighborhood, if that rejection resulted in a lost opportunity for the applicant.

Councilmember Neal commented that he has drafted some changes to the proposed ordinance and would be happy to share that with the Planning Commission as a starting point for the desired changes. He does feel that the definitions and guidelines for Type II home occupations should remain in the ordinance even if the permitting and licensing requirements are eliminated.

Councilmember Neal commented that he believes that the authorization section should be updated to recognize that many types of work can be done in a home with little or no effect on the surrounding neighborhood. He noted that similar language is
in the City of Lawrence home occupation ordinance. He also commented that he feels that from a zoning perspective, restricting activity within a residence because it produces income, but has no impact on the neighborhood or city infrastructure is wrong.

Councilmember Hupp commented that as she was a member of the Planning Commission for 10 years, she wanted to be sure that folks understand that the Planning Commission is made up from Merriam residents with no personal agenda. The goal of any regulation in the city is for the general welfare of all citizens and it is hard to provide regulations based on individual needs. She feels that the regulation of home occupations is important and the regulations and guidelines are there to help those businesses operate within compliance to ensure they don’t run into problems with the city.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RETURN TO THE PLANNING COMMISSION REGULATIONS ON HOME OCCUPATIONS TO RECONSIDER TYPE II PERMITTING AND LICENSING AND TO CLARIFY CERTAIN DEFINITIONS AND OR SUBJECTIVE TERMS. COUNCILMEMBER WEEMS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

VII. COUNCIL ITEMS

A. Finance and Administration

1. Consider approval of an ordinance amending Chapter 14-Business and Business Regulations of the Merriam Code of Ordinances. (first reading) Because the next two items were related to the home occupation regulations, staff recommended tabling the two items.

COUNCILMEMBER HANDS MOVED TO TABLE AN ORDINANCE AMENDING CHAPTER 14 OF THE MERRIAM CODE OF ORDINANCES TO THE APRIL 9, 2018 CITY COUNCIL MEETING. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Consider approval of revisions to the 2018 Schedule of Fees.

COUNCILMEMBER HANDS MOVED TO TABLE THE REVISIONS TO THE 2018 SCHEDULE OF FEES TO THE APRIL 9, 2018 CITY COUNCIL MEETING. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.
B. Community Development/Public Works/CIP

1. Community Development Update.

Community Development Director Bryan Dyer commented that the new Audi dealership has presented a revised Final Development Plan for their site. They are desiring an expansion from their initial submittal. The Planning Commission will be considering this at their April meeting.

Aristocrat Motors is well underway on the expansion which is a fairly large project. They are removing a large area of rock to make way for that expansion.

VIII. STAFF ITEMS

IX. NEW BUSINESS

IX. EXECUTIVE SESSION

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION TO DISCUSS POTENTIAL PURCHASE OF REAL ESTATE AS JUSTIFIED BY K.S.A. 75-4319 (b)(6), WHICH ALLOWS THE CITY COUNCIL TO RECESS INTO EXECUTIVE SESSION FOR THE PRELIMINARY DISCUSSION OF THE ACQUISITION OF REAL PROPERTY. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY, CITY ADMINISTRATOR, AND THE ASSISTANT CITY ADMINISTRATOR. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 10:00 PM. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

The meeting reconvened at 10:00 pm.

X. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HANDS OVED TO ADJOURN AT 10:01 PM COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Respectfully submitted,

Juliana Pinnick
Juliana Pinnick
City Clerk
AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider approval of relocation of playground equipment from Vavra to Waterfall Park

**Department:** Parks and Recreation

**Background/Description of Item:**
Vavra Park will begin transformation to the home of the new Merriam Community Center in the fall of 2018. Since the existing park amenities are less than 10 years old, (shelter 2009; playground 2012; swings 2015) staff began researching opportunities to extend their life by relocating them to Waterfall Park. Staff chose relocation versus storage as there are many small pieces and parts that if not installed immediately after removal have a tendency to be lost. Waterfall Park Master Plan does indicate improvements of playground equipment and shelter. During the research to understand relocation requirements, it was discovered that relocation of the shelter would not be feasible as the roof of the structure would be compromised and required complete replacement. The playground and swings require a total of 7 posts and a complete set of hardware for relocation, which in comparison to the cost of the equipment is a minor expense. The largest expense associated with relocation is pouring the concrete pads and installing safety surface. By installing new safety surface, the replacement timeframe will be extended 15 years. Staff sought bids on concrete and safety surfacing.

<table>
<thead>
<tr>
<th>Concrete</th>
<th>Safety Surfacing</th>
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<tbody>
<tr>
<td>Overland Concrete – no bid</td>
<td>AB Creative/ Duraplay - $37,050 (3-year warranty)</td>
</tr>
<tr>
<td>Freedom Concrete – no bid</td>
<td>Athco/Surface America - $37,530 (7-year warranty)</td>
</tr>
<tr>
<td>McConnell &amp; Associates - $19,114</td>
<td>Fry &amp; Associates / Ashley Trammell - $45,921 (3-year warranty)</td>
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Staff is recommending McConnell & Associates to pour the concrete. Public Works will remove the existing equipment and relocate the equipment to Waterfall Park. Athco / Surface America install the poured in place safety surface due to its extended warranty and experience with their product.

The project budget is $75,442. The breakdown is as follows:
- $19,114 concrete
- $37,050 Surface America poured in place surface with 50% color speckled surface
- $6,220 for playground replacement parts and hardware
- $2,000 Engineer’s Review
- $2,000 Miscellaneous Supplies
- $1,000 Sod
- $1,200 Park Benches
- $6,850 Contingency

**Funding Source:** Equipment Reserve Fund for Parks and Recreation with a budget of $200,000, per review of Finance Director.

**Council Goal or Objective:** Community Development

**Recommendation:** Staff recommends approval to relocate the playground and swings from Vavra to Waterfall Park with concrete poured by McConnell and Associates and safety surfacing installed by Surface America.
AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider Approval of the Appointment and Letter of Understanding for City Prosecutor.

**Department:** Administration

**Background/Description of Item:** The City Prosecutor position became open this spring after the incumbent submitted her resignation to pursue another opportunity. The position was advertised and finalists were interviewed by the Mayor and a team of city staff, including the Assistant City Administrator, the Police Chief, the Court Administrator, the City Attorney, and the Judge. Based on that process, the Mayor has selected Chris Mann for the position. Mr. Mann currently serves as the pro-tem prosecutor for the Merriam Municipal Court and his resume is attached.

Per section 2-61(a) of the Municipal Code, the Mayor, by and with consent of the council, shall appoint the city prosecutor as set forth in Charter Ordinance No. 20. The appointed officer (prosecutor) shall hold office for a term of two years.

**Supporting documents included:**

Letter of Understanding
Christopher Mann’s Resume

**Related Ordinance or Statute:** Merriam Code

**Council Goal or Objective:** 2.2 – Recruit and retain the best talent available within NE Johnson County.

**Recommendation:** Approve the appointment and Letter of Understanding for Christopher Mann as Merriam City Prosecutor.

**Prepared by:** Meredith Hauck, Assistant City Administrator  
**Date:** April 4, 2018
Christopher D. Mann, J.D.
8700 Monrovia, Suite 310, Lenexa, KS 66215 • (913) 730-6266 • chris@mannlawfirmkc.com

Education

Juris Doctor
Washburn University School of Law
May 2010
- Koch Scholar (three-year, full-tuition scholarship)
- Top Paper: Legal Writing and Analysis II
- Course Honors: Trial Advocacy
- Argued and won criminal appeal at Kansas Court of Appeals
- GPA: 3.53 Class Rank: 17/139, Dean’s List

Bachelor of Arts with Distinction
University of Kansas
May 2002
- Major: Psychology
- GPA: 3.86
- Phi Beta Kappa Honor Society; Golden Key National Honor Society

Relevant Experience

May 2017 - Present
Mann Law Firm, P.A.
Lenexa, KS
Owner / Attorney
- Private practice law firm focusing on Criminal Defense, Personal Injury and Family Law
- Strategic partnerships to provide full service legal representation
- Offices in Kansas and Missouri

November 2016 - Present
City of Gardner Kansas
Gardner, KS
City Prosecutor
- Prosecute violations of city ordinances and traffic codes
- Provide education and information to law enforcement and city officials
- Draft and present revisions to ordinance or traffic regulations

October 2013 – May 2017
Kansas Office of the Securities Commissioner
Topeka, KS
Senior Staff Attorney
- Manage full caseload of complex financial criminal and administrative cases
- Instructor for nationwide trial advocacy seminar
- Member of Enforcement Committee at North American Securities Administrators Association

March 2011 – October 2013
Wyandotte County District Attorney’s Office
Kansas City, KS
Assistant District Attorney
- Full caseload of varying criminal cases
- Twelve jury trials including a 2nd degree murder conviction
- Instructor for police recruits at KCK Police Academy

March 2011 – October 2013
University of Phoenix
Kansas City, MO
Criminal Law Faculty
- Developed curriculum within University of Phoenix guidelines
- Taught classes on criminal law and police procedure
September 2010 – March 2011  The Regan Law Firm, LLC  Kansas City, MO

Associate
- Researched and drafted legal memos and pleadings
- Made court appearances as directed in criminal and civil matters
- Collaborated on complex litigation matters

June 2009 – May 2010  Douglas County District Attorney’s Office  Lawrence, KS

Legal Intern
- Prepared and completed successful jury trial in domestic abuse case
- Wrote and argued motions and responses for criminal cases
- Assisted with all aspects of criminal litigation

Summer 2008  United States Attorney’s Office  Kansas City, KS

Summer Extern
- Wrote successful appellate brief for an appeal of conviction
- Researched and wrote motions and pleadings in criminal division
- Assisted with interviews of prosecution witnesses

2003 - 2010  Heartland Investigations, LLC  Lenexa, KS

Owner / Investigator
- Developed investigative protocols and strategies for private investigation company
- Coordinated case loads and supervised investigators
- Managed budgets, marketing and promotions

2003-2008  Marathon Investments, LLC  Lenexa, KS

Owner
- Created financial networks and management systems for real estate investment company
- Managed full-time staff and contractors for company projects
- Managed $3 million yearly projected budgets

1998 - 2004  Lawrence Kansas Police Department  Lawrence, KS

Police Officer
- Protected life and property through enforcement of state laws and city ordinances
- Successfully proposed and implemented bicycle patrol program
- Served as Field Training Officer for new recruits

Additional Experience

2017 - Present  Kansas Sentencing Commission  Topeka, KS

Appointed Member
- Appointed by Governor to serve as a member of the Commission
- Work to develop fair, rational and consistent sentences in Kansas
- Work with legislators and key partners to implement sentencing guidelines
2014 - Present Mothers Against Drunk Driving (MADD) Dallas, TX

Chairman of the Board – National Board of Directors
- Develop and implement strategies, budgets, protocols for large charitable organization
- Appear and speak at local and national events as an ambassador for MADD
- Oversee the development of staff and volunteers through committee work

2011 - Present Mothers Against Drunk Driving (MADD) Olathe, KS
Chair – Volunteer Kansas Advisory Board
- Recruited, formed and managed State Advisory Board
- Testified on legislative matters in accord with the mission of MADD
- Guest lecturer for civic and victim support groups

2009-2011 American Cancer Society Topeka, KS
Volunteer for Topeka “Wine and Roses”
- Managed volunteer recruitment for event
- Coordinated logistics for volunteers during the event
- Oversaw silent auction/art auction fund raising at event

2003-2006 American Cancer Society Overland Park, KS
Volunteer and Co-Chair of Overland Park / Leawood Relay for Life
- Helped raise over $600,000 while working on event staff
- Managed volunteer committee to organize event
- Coordinated the event, recruited sponsors and planned logistics.

Professional Memberships
Admitted to the Kansas Bar - #24567
Admitted to the Missouri Bar - #69590
Admitted to the Federal District of Kansas
Member of the Kansas Bar Association
Johnson County Bar Association
Earl E. O’Connor Inns of Court
Wyandotte County Bar Association
Kansas City Missouri Bar Association
Lawrence Fraternal Order of Police Lodge #2 Member
LETTER OF UNDERSTANDING
(City Prosecutor)

THIS LETTER OF UNDERSTANDING, by and between the CITY OF MERRIAM, KANSAS, a municipal corporation (“City”) and Christopher D. Mann (“Provider”) is executed as of this 9th day of April, 2018.

WHEREAS, CITY requires the services of Provider in the capacity of City Prosecutor; and

WHEREAS, PROVIDER is willing to provide services to Merriam on the terms and conditions set forth herein.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN, IT IS AGREED:

1. That Provider will provide the services more fully described in Exhibit “A” attached hereto, subject to biennial appointment by the Mayor and approved by the City Council as set forth in Charter Ordinance No. 20 and Section 2-37 of the Municipal Code, unless sooner terminated by Provider with thirty day written notice or upon Provider's removal from office by the City as set forth in Charter Ordinance No. 20.

2. That Provider shall obtain and maintain, at Provider's expense, necessary licenses and permits to provide the services to City as his/her profession requires (including any continuing legal education requirements); evidence of such licenses and permits shall be provided to City upon request.
3. That Provider will devote such time as may be necessary to provide his/her services hereunder; provided, however, that nothing contained herein shall be construed to require Provider to devote his/her full-time to providing such services.

IN WITNESS WHEREOF, the parties have set their hands as of the day and date first above written.

CITY OF MERRIAM, KANSAS
A Municipal Corporation

By: ___________________________  ___________________________
Ken Sissom, Mayor              Christopher D. Mann

ATTEST:

______________________________
Juliana Pinnick
City Clerk
Duties:

- Works under the general supervision of the Mayor (or designee).
- Receives legal guidance from the City Attorney.
- Represents the City in the prosecution of municipal ordinance violations in municipal court (K.S.A. 12-4110).
- Exercises discretion in accepting cases for prosecution and the way a case is handled.
- Establishes a plan of diversion to handle certain cases.
- Develops complaint and notice to appear forms in accordance with K.S.A. 12-4202 and K.S.A. 12-4204.
- Represents the City in appeals from Municipal Court to the District Court.
- Holds set office hours at least once per week during the business day (8 a.m. to 4:30 p.m.).

Qualifications:

Admitted to the Kansas bar and recognized to practice law in the State of Kansas.

Residency:

Not Required.

Tenure:

Serves at the pleasure of the governing body for the period of time specified within the appointment (2 years) as set forth in Charter Ordinance No. 20 and Section 2-37 of the Merriam Municipal Code, subject to annual appropriation of funds.
Benefits:

Will be provided access to Westlaw (or similar research tool), and will be provided all equipment, supplies, and furnishings necessary to conduct duties, as set forth previously, of the Prosecutor.

The City shall pay up to $500 annually in reimbursement for traveling and continuing legal education.

Compensation:

The City Prosecutor shall be paid $2,416.67 per month for the performance of these duties.

If the City Prosecutor is temporarily unable to fulfill his duties as appointed by the City of Merriam, they shall be responsible for selecting and compensating a qualified prosecutor to serve during their absence.

If the City Prosecutor is unavailable during court dockets due to a scheduling conflict with a District Court appeal or additional training or education obtained on behalf of an/or for the benefit of the City, the City will compensate the Pro Tem Prosecutor at the same rates set forth in the Municipal Code Section 17.23(b).

Special Compensation for Appeals:

For cases appealed to the District Court, the City Prosecutor will be paid on an hourly basis of $85.00 per hour for the actual time spent, plus expenses.
**AGENDA ITEM INFORMATION FORM**

<table>
<thead>
<tr>
<th><strong>Agenda Item:</strong></th>
<th>Consider accepting the dedication of easements shown on the Monica Estates Final Plat. (PA18-000001)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th><strong>Department:</strong></th>
<th>Community Development</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Committee:</strong></td>
<td>Planning Commission</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Background/Description of Item</strong></th>
</tr>
</thead>
</table>

The applicant has submitted a final plat application for Monica Estates. The proposal is to replat the property located at 6624 Eby Place into two (2) lots for single-family residential development.

The subject property is zoned R-1 (Single-Family Residential) District and the proposed final plat will create one (1) 14,241 square foot lot (Lot 1) and one (1) 12,957 sq. ft. lot (Lot 2).

There is no additional right-of-way dedication for Eby Place. The plat does dedicate perimeter easements in accordance with the city’s subdivision regulations.

There is an existing single-family structure on the subject property. A condition of approval is that the existing single-family structure be removed prior to the city signing the plat.

At their April 4, 2018 meeting, the Planning Commission approved the plat with the following conditions:

1. The existing single-family structure must be removed prior to the city signing the plat.
2. As required by KCPL, the developer is responsible for providing electrical service to Lot 2.

<table>
<thead>
<tr>
<th><strong>Related Ordinance or Statute:</strong></th>
<th>City of Merriam Code – Chapter 62 – Subdivisions</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th><strong>Recommendation:</strong></th>
<th>City Council accept the dedication of easements shown on the Monica Estates plat. (PA18-000001).</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th><strong>Prepared by:</strong></th>
<th>Bryan P. Dyer, AICP</th>
<th><strong>Date:</strong></th>
<th>April 9, 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Community Development Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Application:</td>
<td>PA18-000001 – Monica Estates 1st Plat</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>--------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Request:</td>
<td>Approval of a Final Plat</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property Address:</td>
<td>6624 Eby Place</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant:</td>
<td>Monica Frohock, Property Owner</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Current Zoning and Land Use</th>
<th>R-1 (Single-Family Residential) District; developed with a single-family residence.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surrounding Zoning and Land Use</td>
<td>R-1 District to the north; developed with a single-family residence.</td>
</tr>
<tr>
<td></td>
<td>C-O (Commercial Office) District to the south and west; developed with an office building.</td>
</tr>
<tr>
<td></td>
<td>R-1 District to the east; developed with single-family residences;</td>
</tr>
<tr>
<td>Legal Description</td>
<td>BRYAN PLACE LOT 9</td>
</tr>
</tbody>
</table>

| Property Area | 0.62 acres  
                | 27,198 sq. ft. |
| Number of Lots (2) | Lot 1 – 0.327± acres (14,241± sq. ft.)  
                        | Lot 2 – 0.297± acres (12,957± sq. ft.) |

<table>
<thead>
<tr>
<th>Related Case Files</th>
<th>None</th>
</tr>
</thead>
</table>
Vicinity Map PA18-000001
Monica Estates 1st Plat
**Staff Comments:**
The applicant is requesting approval of Monica Estates 1st Plat. The proposal is to replat the property located at 6624 Eby Place into two (2) lots for single-family residential development.

The subject property is zoned R-1 (Single-Family Residential) District and the proposed final plat will create one (1) 14,241 square foot lot (Lot 1) and one (1) 12,957 sq. ft. lot (Lot 2).

There is an existing single-family structure on the subject property. A condition of approval is that the existing single-family structure must be removed prior to the city signing the plat.

**Comments from City staff and Public Utilities**
As part of the review process, staff provided copies of the proposed plat to the public utilities. In addition, staff solicited comments from other city departments.

The applicant has addressed all comments.

**Dedication of Right-of-Way**
There is no additional right-of-way dedication required for Eby Place.

**Easements**
The plat dedicates perimeter easements in accordance with Merriam subdivision regulations found in the Merriam Code.

**Access**
Following the filing of the plat, the newly created lots will have direct access to Eby Place.

**Lots**
Total Area: Approximately 0.62± Acres (27,198± sq. ft.)

Lot 1: 0.327± Acres (14,241± sq. ft.)
Lot 2: 0.297± Acres (12,957± sq. ft.)

**Public Utilities**
The subject property has access to all required public utilities. KCPL commented that the developer is responsible for extending power distribution facilities to Lot 2. The developer has been notified of KCPL’s requirement.
**Staff Recommendation:**
Community Development staff finds that the applicant’s proposal is in order for approval and forwarding it to the City Council for the acceptance of easements.

1. The existing single-family structure must be removed prior to the city signing the plat.
2. As required by KCPL, the developer is responsible for providing electrical service to Lot 2.

________________________
Bryan P. Dyer, AICP  
Community Development Director  
April 4, 2018
Final Plat of: MONICA ESTATES
A REPLAT OF LOT 9, BRYAN PLACE, A SUBDIVISION IN THE CITY OF MERRIAM, JOHNSON COUNTY, KANSAS

DEED OF RECORD BOOK 6595 PAGE 642

1. Kansas and Incorporated Areas Flood Insurance Rate Map (F.I.R.M.)
   No way constitute a basis for a flood certificate. No field work was performed to
   determine the accuracy of the F.I.R.M.

2. Fax: (913) 371-2677
   Ph.: (913) 371-5300
   BHC RHODES

3. This property lies within Flood Zone "X (unshaded)" (Areas determined to be
   flooded by a 100-year flood of a 0.5-foot depth), as determined by Global Positioning System observations and referenced to the Kansas State Plane Coordinate System (NAD 83).

4. Error distance: 0.003'  Error Direction: S 49° 45' 05" E
   Perimeter: 652.80'

5. The plat of "BRYAN PLACE" recorded April 12, 1960 and filed in Book 22 at
   page 878 and provisionally recorded in Book 198 at page 691. The plat of "BRYAN PLACE" recorded April 12, 1960 and filed in Book 22 at
   page 878 and provisionally recorded in Book 198 at page 691.

6. My commission expires: _____________                             ______________________________

7. Be it remembered that on this ____ day of _______________________, 2018, before me appeared Monica M. Frohock, a single person,
   owner of the hereinafter described property, to execute and acknowledge this act and deed.

8. ACKNOWLEDGMENT
   My commission expires: _____________                             ______________________________

9. APPRAISALS
   APPROVED by the Planning Commission of the City of Merriam, Johnson County, Kansas, this ____ day of _____________________, 2018.
   ______________________________                                    ______________________________

10. CONSENT TO LEVY
    My commission expires: _____________                             ______________________________

11. SURVEYORS CERTIFICATION
    Be it remembered that on this ____ day of ______________________, 2018, before me appeared Monica M. Frohock, a single person,
    owner of the hereinafter described property, to execute and acknowledge this act and deed.

   Owner: Monica M. Frohock

   Surveyor: BHC RHODES, KS CLS-175

   712 State Avenue
   Fax: (913) 371-2677
   Ph.: (913) 371-5300

   BHC RHODES

   Surveyor: BHC RHODES
   Fax: (913) 371-2677
   Ph.: (913) 371-5300

   BHC RHODES
2nd Quarter 2018 Employee Service Awards

5 Years of Service
Chris Engel-Administration
David Vincent- Police Department

10 Years of Service
Andy Robrahn-Administration

20 Years of Service
John Walton-Police Department
Director’s Message

Whether we’re hosting a small meeting with 20 attendees, a group tour for multiple motor coaches, or a fun weekend getaway for a family, it’s important the Convention and Visitors Bureau (CVB) delivers exceptional service and superb hospitality to everyone visiting our city. In 2017, we did just that, and were awarded the designation of one of the “most tourist-friendly cities in the U.S.” by Expedia.

Although we’re honored to earn such high praise, we work hard to truly model that designation every single day. Each year, we strive to assemble a program of work that puts our visiting public at the forefront of all we do. From an easy-to-read and interactive visitors guide, to events and promotions our visitors enjoy, the CVB is constantly utilizing visitor feedback, trends and industry data to help us deliver programs and services that our visitors seek.

In 2017, we embarked on a major meteorological event known as Eclipse 2017, and we partnered with neighbors across city and county lines to welcome 27,000 Junior Olympic athletes to our region. We hosted our first-ever Pickleball Festival which drew 135 people from 26 states and four countries, and we “took-over” the Ride KC Streetcar for a day during National Tourism Week. But, perhaps one of the biggest accomplishments of the year, and every year, is helping those walk-in visitors to our tourism office. They could be seeking directions, a place to dine, or something fun to do, and they land in our office ready for the insider scoop. No matter the request, with every chime of the door, we are granted yet another opportunity to serve, and THAT is how designations from Expedia are earned.

As visitors choose where to spend their travel time and dollars, we are especially grateful that Merriam is “Just Right” for so many! Thank you for allowing us to be your destination of choice.

Karen Crane
Karen Crane, Director
2017 Merriam Hotel Performance

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCCUPANCY</td>
<td>68%</td>
<td>64%</td>
<td>60%</td>
<td>62.6%</td>
</tr>
<tr>
<td>ADR</td>
<td>$62.23</td>
<td>$69.77</td>
<td>$73.96</td>
<td>$75.24</td>
</tr>
<tr>
<td>REVENUE</td>
<td>$8 M</td>
<td>$8.4 M</td>
<td>$8.3 M</td>
<td>$8.8 M</td>
</tr>
</tbody>
</table>

OCCUPANCY in Merriam rose 4.5% and hotel revenue grew 5.8% from 2016.

TRANSIENT GUEST TAX (TGT) collections have remained steady and stable in Merriam for four consecutive years.

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>OCCUPANCY</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AVG DAILY RATE</td>
<td>$62.23</td>
<td>$69.77</td>
<td>$73.96</td>
<td>$75.24</td>
</tr>
<tr>
<td>REVENUE</td>
<td>$8 M</td>
<td>$8.4 M</td>
<td>$8.3 M</td>
<td>$8.8 M</td>
</tr>
</tbody>
</table>

The Power of TRAVEL

PICKLEBALL FESTIVAL
October 2017
135 players
26 states
4 countries
$75,000 economic impact

“Thank you for the hospitality Merriam offered to all of us attending the 3rd Shot’s a Charm Pickleball Festival. We enjoyed staying, playing, and dining in your community. This first-ever festival was a tremendous success, and I know that your Visitors Bureau contributed to that. I hope we see you again in the future!”
—Kim W., St. Louis, MO

25.2 million visitors to the Kansas City region
23% of visitor spending occurs in Johnson County
47% of visitors stay overnight

Hotel occupancy in Merriam rose 4.5% and hotel revenue grew 5.8% from 2016.

ROOM COUNT – MERRIAM LODGING

<table>
<thead>
<tr>
<th></th>
<th>110</th>
<th>141</th>
<th>85</th>
<th>88*</th>
<th>90</th>
</tr>
</thead>
<tbody>
<tr>
<td>DRURY INN.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>INN.</td>
<td></td>
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</table>

*Closed Nov. 2017

KANSAS VISITORS SPENT $6.7 BILLION THAT’S $186 PER VISITOR

TOURISM SPENDING IMPACTS MORE THAN 95,000 JOBS

36 MILLION people visited KANSAS
14.2 MILLION stayed overnight
Distributed 6,000 Merriam Visitor Guides through travel center fulfillment, local delivery, tradeshows, placement, direct mail, and online request.

#52weeks launched in January 2017 and featured a weekly post on Instagram promoting a Merriam event, fact, or attraction. After a year of posting each week, we doubled our Instagram followers and increased our engagement!

Marketing messages yielded 3,184,284 million impressions

Contributed to Freedom’s Frontier Monday Minute Newsletter

“Like a good neighbor, the local CVB is there.”

This guest article resulted in a panel presentation to local attractions in the Freedom’s Frontier National Heritage Area on how to make your attraction group-friendly by working with your local CVB.

Most popular social posts:

Streetcar Takeover 1,386 impressions 50 engagements

Eclipse Bears 538 reach 73 clicks

Developed a new Meet in Merriam profile to distribute to meeting planners at industry tradeshows and online. This new piece came in handy at the annual Kansas Society of Association Executives convention in December.

Socially speaking... The CVB increased social following across all networks by 7 percent.

717 1,402 202 150

Consumer/Industry Shows

<table>
<thead>
<tr>
<th>Event</th>
<th>Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day on the Hill</td>
<td>February</td>
</tr>
<tr>
<td>Missouri Bank Travel</td>
<td>May</td>
</tr>
<tr>
<td>Tour Kansas Showcase</td>
<td>August</td>
</tr>
<tr>
<td>Kansas Society of Association Executives</td>
<td>December</td>
</tr>
</tbody>
</table>

Merry in Merriam made her debut in 2017 offering holiday discounts and promotions in our region. This social elf promoted products, sales, and events to help boost the holiday spirit (and sales) of local Merriam merchants.
Meetings, Events & Tours

Eclipse August
One of Merriam’s biggest events of the year (and the Nation’s) was Eclipse, 2017. Directly located in the path of the eclipse, Merriam worked together with three neighboring communities to welcome more than 300 people to Antioch Park for “Total Eclipse in the Parks.” This historic event offered free eclipse viewing glasses, food trucks, and plenty of wide-open viewing space for all! The clouds stayed away just long enough for viewers to catch the entire eclipse – this meteorological event will be remembered for many years to come!

Junior Olympics July
Tourism partner Visit Lawrence reached out to northeast Kansas destinations for help in room accommodations, events, dining, shopping, and attractions that they could share with the 26,826 athletes and visitors attending U.S. Track & Field Junior Olympics. Held at Rock Chalk Park, this event boasted $22 million in total economic impact and offered Merriam the chance to welcome fans to the park with visitor guides and cooling fans (on an especially hot day).

3rd Shot’s a Charm Pickleball Festival October
Merriam welcomed 135 pickleballers from 26 states and four countries in early October as the inaugural host of the TSAC Pickleball Festival. This fun group played pickleball day and night, offered fun evening socials, and shopped, dined, and lodged in Merriam to the tune of $75,000 over this 3-day event.

Streetcar Takeover May
This weekend event allowed us to host an information booth at the Kauffman Center stop on Main Street. We featured our delicious locally baked Povitica, musicians with instruments made by K.C. Strings, and plenty of swag for streetcar passengers who stopped at our booth. The sun was shining, the streetcar was buzzing and Merriam was a favored destination in downtown Kansas City for the day!

National Tourism Week May
The 2017 theme during National Tourism Week, “Faces of Travel,” allowed us the opportunity to showcase those industry employees who directly impact visitation on a daily basis in Merriam. Through a series of video clips, Merriam highlighted a local hotel manager, tour merchant, city council members, a tour operator and retail partner. Our efforts were noted by the U.S. Travel Association who also recognizes and values the people who serve our visiting public.

3rd Shot’s a Charm Pickleball Festival October
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2017 was an active year for visitation to Merriam Historic Plaza. A few enhancements greeted incoming visitors to the Visitors Bureau office at Shawnee Mission Parkway and I-35. Take a look:

**Kid’s Kit**
A tourism office can be a little B-O-R-I-N-G for the kiddos, but they often accompany parents when seeking referrals, a visitor guide, or a map! We’ve fixed the CVB blues with a fun, interactive kid’s tourism kit, which includes the annual park passport, coloring pages and crayons, a free gift, and other kid-approved swag.

**Coffee Bar**
Lots of visitors ask for coffee; we said, “Why not?” The CVB office now has a coffee bar (hot cocoa bar during the holidays) for visitors looking for a “perk” when coming through our doors!

**Postcards**
One of the top requests at the CVB office is, “Do you have FREE postcards?” The answer is yes! In 2017, we created new designs and most visitors grab one when stopping by. #snailmail

**CVB Office Visitors:**
Meet the Crawfords from Indiana

**Visitor Services**

828
2017 is in the books and 2018 holds another promising year for tourism in Merriam. Research indicates economic expansion is accelerating, consumer and small business confidence remain high, the labor market is healthy, wage growth is picking up, and inflation remains contained (U.S. Travel Association). All of these factors contribute greatly to a favorable travel market in the coming year. The Merriam Visitors Bureau will continually monitor visitor trends and economic indicators as we work to promote and sell our destination to those visiting the metro Kansas City region. It’s our pleasure to serve visitors to our community.

2017 Parting Shots...

Coming up:
- KC Destinations Trips
  #kccoffeetrip launches Spring 2018
- Frontier Military Byway Motorcycle Ride
- Project Time Off: One Tank Trips
- In-House Visitors Guide
- Tour Kansas Showcase

Stay in Touch...
@EXPLOREMERRIAM  
EXPLOREMERRIAM.COM  |  913.403.8999
Welcome Message From The Chief

This Is OPFD

The City We Serve

A Historic Fire

Special Features

Arrivals & Departures
The Regular Planning Commission meeting for the City of Merriam, Kansas was called to order at 7:00 p.m. by Chair Carol Whitlock on Wednesday, April 4, 2018 in the Council Chambers with the Chair inviting everyone present to participate in the Pledge of Allegiance to the Flag.

I. ROLL CALL

Members Present: Bill Bailey
Bill Carter
Reuben Cozmyer
Brian Dailey
Judy Deverey
Vice Chair Leah Ann McCormick, arrived at 7:08 p.m.
Chair Carol Whitlock

Members Absent: Mitchell Fowler
Secretary Russ Harmon

Also Present: Bryan Dyer, Community Development Director, John Hollis, Planner and Nancy Yoakum, Recording Secretary.

II. APPROVAL OF MINUTES OF March 7, 2018

Chair Carol Whitlock stated that the Planning Commission members had received a copy of the March 7, 2018 meeting minutes and asked if there were any corrections or additions.

Hearing no comments, Chair Carol Whitlock entertained a motion.

REUBEN COZMYER MOVED THAT THE MINUTES OF THE PLANNING COMMISSION MEETING OF MARCH 7, 2018 BE APPROVED. JUDY DEVEREY SECONDED THE MOTION. THE MOTION WAS APPROVED.

III. ITEMS OF BUSINESS

1. PA18-000001 Final Plat for Monica Estates located at 6624 Eby Place in an R-1(Single Family Residential) District.

Chair Carol Whitlock presented to the Planning Commission application PA18-000001 for a final plat for Monica Estates located at 6624 Eby Place in an R-1 (Single Family Residential) District.

Community Development Director Bryan Dyer stated that this is the final plat for Monica Estates 1st Plat.
Mr. Dyer reviewed the site location and surrounding uses. Mr. Dyer stated the proposal is to replat the property into two (2) lots for single-family residential development.

Mr. Dyer stated that the subject property is zoned R-1 (Single Family Residential) District and the proposed final plat will create one (1) 14,241 sq. ft. lot (Lot 1) and one (1) 12,957 sq. ft. lot (Lot 2).

Mr. Dyer stated that currently there is a single-family structure on the subject property. Mr. Dyer stated a condition of approval is that the existing single-family structure must be removed prior to the city signing the plat.

Mr. Dyer stated that as part of the review process, staff provided copies of the proposed plat to public utilities. Mr. Dyer stated that KCPL commented that the developer is responsible for extending power distribution facilities to Lot 2. Mr. Dyer stated this is a condition of approval.

Mr. Dyer stated there is no need for a right-of-way, there is only a dedication of utility easements.

Mr. Dyer stated he would answer any questions of the Planning Commissioners and that the owner’s representative was present as well.

Chair Carol Whitlock inquired if there was any questions for Mr. Dyer. Hearing none, she invited the applicant to address the Planning Commission.

Monica Frohock introduced herself to the Planning Commission.

Commissioner Bill Bailey inquired what her intentions were with replatting the property.

Ms. Frohock stated that she intends to demolish the existing residence and build two new homes on the property to sell.

Commissioner Bill Bailey inquired about the right of way on the site plan.

Mr. Dyer stated it was a utility easement.

Commissioner Bill Carter inquired about Johnson County Wastewater since the applicant will need to have two (2) new connections.

Mr. Dyer stated that will be for the applicant to address with Johnson County Wastewater, and will be reviewed by the county.

Chair Carol Whitlock inquired if there were any additional questions. Hearing none, she entertained a motion.

**BILL BAILEY MOVED THAT THE PLANNING COMMISSION APPROVE APPLICATION PA18-000001 FINAL PLAT FOR MONICA ESTATES LOCATED AT 6624 EBY PLACE WITH THE CONDITIONS LISTED IN THE STAFF REPORT. REUBEN COZMYER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.**

2. **PUD18-000001 Final Development Plan for Shawnee Mission Audi located at 6601 E. Frontage Rd. in a PUD-G (Planned Unit Development-General) District.**
Chair Carol Whitlock presented to the Planning Commission application PUD18-000001 for a final development plan for Shawnee Mission Audi located at 6601 E. Frontage Rd. in a PUD-G (Planned Unit Development-General) District.

Community Development Director Bryan Dyer stated the applicant is requesting approval of a final development plan for the purpose of adding 2,985 sq. ft. to the previously approved Shawnee Mission Audi building. This would bring the overall size of the dealership building to 30,339 sq. ft. Mr. Dyer stated the applicant is not changing any access points to the dealership. Mr. Dyer stated that in addition the application shows a separate 1,370 sq. ft. car wash to the south property line.

Mr. Dyer reviewed the site location and surrounding uses. Mr. Dyer stated the final development plan shows a 30 x 100 ft. (2,985 sq. ft.) addition onto the south side of the previously approved building. Mr. Dyer stated this would expand the service and parts storage area.

Mr. Dyer stated the proposed car wash will be 1,370 sq. ft. and will be located approximately eight (8) feet from the south property line. Mr. Dyer stated the hotel parking lot is currently five (5) feet from the property line. Mr. Dyer stated that the car wash building façade would be of materials that matched the approved dealership. Mr. Dyer stated additional landscaping is proposed to the east and south of the car wash building.

Mr. Dyer stated that because the car wash, small addition to the building, changes to the parking requirements and storm water study, staff requested the applicant submit a final development plan to the Planning Commission.

Mr. Dyer stated the required parking is 108 spaces, the applicant is providing 210 spaces and are denoting the parking for vehicles that will be on display.

Mr. Dyer stated the addition utilizes the same exterior façade materials as the dealership. Mr. Dyer stated the applicant is keeping the same percentage glazing of the façade that was previously submitted. Mr. Dyer stated the applicant has made a few minor changes on the façade, but nothing of a significant nature.

Mr. Dyer stated that applicant has a building permit submitted that is currently under review. Mr. Dyer stated that if the application is approved tonight, the applicant will be submitting revised plans showing the changes.

Mr. Dyer stated he would answer any questions of the Planning Commissioners and stated the owner’s representative was present as well.

Commissioner Bill Carter inquired if the applicant indicated what the usage on the car wash would be and what direction the sewers would flow.

Mr. Dyer stated the applicant did not provide the hours of use and the applicant is in conversation with Johnson County Wastewater. Mr. Dyer stated that Johnson County Wastewater has already indicated they will need a separate permit. Mr. Dyer stated that Johnson County Wastewater would do an analysis of downstream capabilities.

Chair Carol Whitlock inquired if there were any additional questions for Mr. Dyer. Hearing none, she invited the applicant to address the Planning Commission.

Michael Graves, 13355 Noel Rd., Ste. 1810, Dallas, TX 75240-1505, introduced himself to the Planning Commission.
Mr. Graves stated he is the owner of the Gravity Company and his company does similar dealerships around the country. Mr. Graves stated they are happy to be located in Merriam and that staff has been a pleasure to work with.

Chair Carol Whitlock inquired when they anticipate the dealership being in operation.

Mr. Graves stated they hope to be open by the summer of 2019.

Commissioner Bill Bailey inquired if there was an answer as to why the dealership is being called Shawnee Mission Audi vs. Merriam Audi.

Mr. Dyer explained that Shawnee Mission Audi is the dealership's established name and it would likely be a difficult to change it.

Mr. Graves confirmed what Mr. Dyer stated was correct and stated that it is difficult to change with the Department of Motor Vehicles and they would have to have an agreement with all the other Audi dealerships in the surrounding area.

Chair Carol Whitlock inquired if they would be using the address of Shawnee Mission or Merriam.

Mr. Graves stated it would be Merriam, and they hope to generate good revenue for the City of Merriam.

Chair Carol Whitlock inquired if there were any additional questions for Mr. Graves. Hearing none, she entertained a motion.

**JUDY DEVEREY MOVED THAT THE PLANNING COMMISSION APPROVE APPLICATION PUD18-000001 FINAL DEVELOPMENT PLAN FOR SHAWNEE MISSION AUDI LOCATED AT 6601 E. FRONTAGE RD. WITH THE CONDITION LISTED IN THE STAFF REPORT. LEAH ANN MCCORMICK SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.**

IV. BUSINESS FROM THE FLOOR

- The Bob Evans building has been sold to an LLC out of Wichita, KS. There has been no discussions at this time.
- Plans have been submitted for the Shawnee Mission Medical Center parking garage and Medical Office building. There was a groundbreaking ceremony for the B.E. Smith Family Center building.
- Construction is underway at Aristocrat Motors.
- A Certificate of Occupancy has been issued for the Shawnee Mission School District warehouse/office building.
- The Merriam volunteer reception is set for Thursday, April 19th.

V. UNFINISHED BUSINESS

None

VI. OLD BUSINESS

1. Reconsider T-01-01-18 Home Occupation Amendment based upon a motion approved by the City Council March 26, 2018.
Chair Carol Whitlock presented to the Planning Commission T-01-03-18 Home Occupation Amendment.

Community Development Director Bryan Dyer stated that on March 26, 2018 the City Council considered the ordinance that was forwarded to them by the Planning Commission. Mr. Dyer stated following comments from the public and discussion amongst the City Council, the City Council made a motion to return to the Planning Commission to reconsider Type II permitting and licensing and to clarify certain definitions and/or subjective terms. The motion was unanimously approved.

Mr. Dyer added that this is the normal process for communication between the Commission and Council regarding this item and that the city is following the process laid out in state statues. Mr. Dyer also informed the Commission that the Council was extremely pleased, grateful, and respectful of the Commission’s hard work on the issue.

Mr. Dyer stated that per state statutes and city ordinance, the Planning Commission now has three options:

1. Make no changes to the proposed ordinance and resubmit it along with the original recommendation for approval. The Planning Commission will need to provide a reason for the resubmittal of the proposed original ordinance.

2. Revise the proposed ordinance and submit it to the City Council.

3. Take no action. Mr. Dyer informed the Commission that if the body takes to action, then the Council will take the inaction as a resubmission of the original recommendation.

Mr. Dyer stated the City Council’s comments centered on Type II home occupations needing a city permit and the need to clarify the home occupation definitions and standards.

Mr. Dyer reviewed in detail the proposed ordinance based on the motion and comments made by City Council.

Mr. Dyer stated he would answer any questions of the Planning Commissioners.

Commissioner Reuben Cozmyer stated that last month it was discussed that most adjacent cities had requirements for Occupational Licenses except for Overland Park. Commissioner Cozmyer inquired as an example why the City of Shawnee would chose to have a license program, but not Overland Park.

Mr. Dyer stated that the City of Overland Park did not issue business licenses.

Commissioner Judy Deverey inquired what happens to the existing Type II licenses.

Mr. Dyer stated that if this ordinance were adopted, Type II residents would be notified they no longer would need a license for 2019.

Commissioner Brian Dailey inquired what the requirements would be for a Type II license.

Mr. Dyer stated there would be requirements to meet, but Type II home occupations will have no interaction with the city unless there is a complaint.
Commissioner Bill Bailey inquired since there will be no oversight with Type II licensing, what problems does staff anticipate.

Mr. Dyer stated there could be a situation where someone has a Type II license that should have a Type I license. Mr. Dyer does not anticipate that will be a common occurrence and will be very infrequent.

Mr. Dyer stated that if the community decides that not licensing Type II is creating a problem, the Planning Commission or City Council can considering revising the ordinance.

Commissioner Judy Deverey inquired if a contractor came in and stated they are a Type II license, how staff would handle that situation.

Mr. Dyer stated the contractors are considered a Type I license due to the nature of their business, high levels of traffic and storage.

Commissioner Brian Dailey inquired if Mr. Dyer could summarize what a Type I applicant would need to do in order to obtain a license.

Mr. Dyer stated they would complete an application, certify the use limitations, and notice via first class mail to neighbors within 200 ft. of their residence their intentions of the business. Mr. Dyer stated if the resident is a renter, they have to have their landlord sign the home occupation application. Mr. Dyer stated there is a waiting period that allows neighbors to voice any concerns or questions, but does not give neighbors the authority to veto the business. After the waiting, staff will take action of the license. If approved, the license automatically renews every five (5) years unless there is a complaint or a change in the status of the home occupation.

Commissioner Dailey inquired if there would be any circumstance when an application would come to the Planning Commission.

Mr. Dyer stated that an application would come to Planning Commission if an applicant wanted to appeal a decision made by staff.

Mr. Dyer reviewed the definitions of trucks defined by the Department of Revenue to help define Section 74-469, section 10 (2) and stated construction vehicles would be defined by Gross Vehicle Weight (GVW).

After the Planning Commission discussed the proposed ordinances, they proposed three (3) changes to the ordinance:

1. Change definition of construction vehicles in Section 74-269, section 10 (2)
2. Type 1 Home Occupation in Section 74-468 Definitions
3. Removing “Deliveries or pick-ups by a vehicle with more than two-axels or by a trailer is not allowed” in Section 74-269, section 10 (18)
Chair Carol Whitlock inquired if there were any additional questions. Hearing none, she entertained a motion.

**JUDY DEVEREY MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF TEXT AMENDMENT T-1-03-18 HOME OCCUPATION TEXT AMENDMENT WITH THE PROPOSED CHANGES AND FORWARD IT TO CITY COUNCIL FOR FINAL APPROVAL. BILL CARTER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.**

**VII. ADJOURNMENT**

With no further business for discussion, Chair Carol Whitlock asked for a motion for adjournment.

**LEAH ANN MCCORMICK MOVED FOR ADJOURNMENT.** The meeting was adjourned 8:08 p.m.

Respectfully Submitted,

Nancy B. Yoakum
Recording Secretary

Approved:
**AGENDA ITEM INFORMATION FORM**

<table>
<thead>
<tr>
<th>Agenda Item:</th>
<th>Consider approval of an ordinance amending the home occupation regulations in Chapter 74 – Zoning of the Merriam Code of Ordinances.</th>
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<tbody>
<tr>
<td>Department:</td>
<td>Community Development</td>
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<td>Committee:</td>
<td>Planning Commission</td>
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**Background/Description of Item:**

At the January 8, 2018 meeting, the City Council directed the Planning Commission to review and make a recommendation on possible revisions to the home occupation regulations in Chapter 74 – Zoning of the Merriam Code.

On February 7, 2018, the Planning Commission reviewed the current home occupation regulations and provided staff recommendations for revisions to the regulations.

On March 7, 2018, the Planning Commission conducted a Public Hearing on an ordinance revising the home occupation standards contained in Chapter 74. After taking public comments, the Planning Commission Chair closed the Public Hearing. Following discussion, the Commission unanimously voted to forward an ordinance to the City Council with a recommendation for approval.

On March 26, 2018, the City Council considered the ordinance that was forwarded to them by the Planning Commission. Following comments from the public and extensive discussion amongst the Council, the Council unanimously approved to send the ordinance back to the Planning Commission for them to “reconsider Type II permitting and licensing and to clarify certain definitions and or subjective terms.”

On April 4, 2018, the Planning Commission reconsidered the ordinance, specifically looking at the permitting and licensing of Type II home occupations and clarifying definitions and terms. To facilitate their reconsideration, staff provided the Planning Commission with an ordinance with suggested changes based on the City Council’s discussion and action.

The Planning Commission discussed the revised ordinance and made three changes; they clarified the size of vehicles that a home occupation can store outdoors, simplified the description of allowable delivery vehicles, and clarified the section title for permit renewals. The Planning Commission’s revisions are shown in blue in the “marked up” version of the ordinance.

The Planning Commission then unanimously recommended approval of the ordinance.
Attached are “marked up” and “clean” versions of the ordinance with the Planning
Commission’s changes.

Per state statutes, the City Council has three (3) options regarding the ordinance:

1. Adopt the ordinance (5 affirmative votes required);
2. Revise or amend the ordinance with a majority vote (5 affirmative votes still required to
   adopt the ordinance); or
3. Take no further action on the ordinance.

If the City Council takes no further action, it will be considered a rejection of the ordinance

Legal Counsel has reviewed the draft ordinance.

<table>
<thead>
<tr>
<th>Related Ordinance or Statute:</th>
<th>Merriam Zoning Regulations</th>
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</thead>
<tbody>
<tr>
<td>Council Goal or Objective:</td>
<td>N/A</td>
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</table>
| Recommendation:               | The City Council concur with the Planning Commission’s recommendation and approve an
                                 ordinance revising the regulation of home occupations in Chapter 74 – Zoning of the Merriam
                                 Code and authorize the Mayor to sign the effectuating ordinance. |
| Prepared by:                  | Bryan P. Dyer               |
| Date:                         | April 9, 2018               |
| Community Development Director|                             |
MEMORANDUM

DATE: April 4, 2018

TO: Planning Commission

FROM: Bryan P. Dyer, Community Development Director

RE: Home occupation regulations

On March 7, 2018, the Planning Commission conducted a Public Hearing on an ordinance revising the home occupation regulation in Chapter 74 – Zoning of the Merriam Code. After taking public comments, the Planning Commission Chair closed the Public Hearing. Following discussion, the Commission unanimously voted to forward the ordinance to the City Council with a recommendation for approval.

On March 26, 2018, the City Council considered the ordinance that was forwarded to them by the Planning Commission. Following comments from the public and extensive discussion amongst the Council, the Council unanimously approved the following:

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RETURN TO THE PLANNING COMMISSION REGULATIONS ON HOME OCCUPATIONS TO RECONSIDER TYPE II PERMITTING AND LICENSING AND TO CLARIFY CERTAIN DEFINITIONS AND OR SUBJECTIVE TERMS.

Per state statutes and city ordinance, the Planning Commission now has three options:

1. Make no changes to the proposed ordinance and resubmit it, along with the original recommendation for approval. The Planning Commission will need to provide a reason for the resubmittal of the proposed original ordinance.
2. Make revisions to the proposed ordinance and submit it to the City Council.
3. Take no action.

Attached is the draft March 26, 2018 City Council minutes.

In summary, the majority of the City Council’s comments centered on Type II home occupations needing a city permit. Council commented that because Type II home occupations are not visible to neighboring residents and have little to no impact on the surrounding residential uses, they should not be required to obtain a city permit or license. The Council also commented on the need to clarify the home occupation definitions and standards.
Attached are two documents showing staff’s suggested revisions to the proposed ordinance based on the motion and comments made by the City Council. Some of the suggested revisions are done to make the ordinance language consistent. An example being the use of the terms “customers”, “clients”, and “visitors”. For consistency, the revised ordinance uses the term “customers” for any non-employee that visits the home occupation.

Below are the substantive changes suggested by staff.

SECTION 9. Section 74-468 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-468. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

_Type I_ home occupation means a business, profession, occupation or trade conducted, wholly or in part, within a single-family or a two-family dwelling unit or within a structure accessory to a single-family or two-family residential building in which an employee or customers routinely visit the residence. Examples include but are not limited to: counseling, tutoring, musical instruction, contractor office, and hair cutting/styling.

_Type II_ home occupation means an economic activity involving no routine customers or employees on the premises or the storage of tools or equipment for use off premises. A Type II home occupation is where the residence serves as the resident’s primary office has no discernable impact on the surrounding neighborhood and can occur in any typical dwelling unit. Examples include but are not limited to: writer, accountant, consultant, and computer programmer.

SECTION 10. Section 74-469 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-469. - Use limitations.

The following minimum use limitations shall apply to all home occupations:

(1) Except as provided in Sec. 74-469(7), no visible or audible evidence of the home occupation shall be apparent from the street, adjacent properties, or the surrounding area.

(2) There shall be no outdoor storage of stock, stock in trade, _construction vehicles rated more than one ton_, equipment, machinery or materials used in the business of the home occupation. _Trailer parking done in conformance with this chapter is allowed._

(3) No more than 20 percent of the floor area of a dwelling unit shall be devoted to a home occupation.

(4) No mechanical or electrical equipment other than customary domestic or household equipment shall be used in the home occupation.

(5) A home occupation shall not create excessive noise, waste run-off, dust, dirt, smoke, odor, vibration, glare, heat or lighting that would be in excess of that created in the customary use of a residential dwelling.
A home occupation shall not create interference with, or fluctuations of, radio or television transmissions in the neighborhood.

Except as provided in Sec. 74-469(8), only signage permitted in Chapter 53 of the Merriam City code is allowed.

Vehicles may have a total of three signs, one sign on the rear and one sign on each side of the vehicle. Each individual sign shall be no larger than six square feet.

No alteration of the residential property, including buildings and structures, shall be permitted that would cause the property to lose its residential character or detract from the residential character of the neighborhood.

No production, burning, dumping or storage of combustible, toxic or hazardous substances shall be allowed.

No waste, refuse, trash, or waste byproduct generated off of the residential premises shall be dumped, disposed of, incinerated, burned or stored on the residential premises. Home occupations are not allowed commercial trash or regular dumpster services.

No boarding houses, bed and breakfasts, or hotels.

Other than vehicles and equipment owned by the resident, any type of repair or assembly of vehicles or equipment with internal combustion or electrical engines or of larger appliances or other work related to vehicles and their parts is prohibited.

Home occupations may not serve as headquarters or dispatch centers where employees come to the home occupation and are dispatched to other locations.

No funeral or interment services.

No animal services.

No restaurants; catering for off-premise consumption is allowed.

Storage of construction vehicles or large equipment is not allowed at a home occupation. Trailer parking done in conformance with this chapter is allowed.

Deliveries or pick-ups of supplies or products shall be by vehicles that normally perform deliveries or pick-ups in residential neighborhoods. Deliveries or pick-ups by a vehicle with more than two-axles or by a trailer is not allowed. Deliveries or pick-ups shall occur between 7:00 a.m. and 9:00 p.m.

SECTION 12. Section 74-471 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-471. – Type I Home occupation use limitations.

In addition to the use limitations listed in Sec 74-469, Type I home occupation shall have the following additional use limitations.

One nonresident employee is allowed. A “nonresident employee” includes an employee, business partner, co-owner, or other person affiliated with the Type I home occupation who does not live at the dwelling but regularly visits the site as part of the home occupation.
(2) Only 10 customers or clients may visit the dwelling unit in a day.

(3) No more than three customers or clients can be present at the dwelling unit at the same time.

(4) Group gatherings or meetings, involving more than one customer or client, may be held at the location of the home occupation no more frequently than one time per month and shall be held inside the home occupation dwelling unit or its accessory structure. Parking for these events can occur in the right-of-way in areas where parking is not prohibited.

(5) Patrons Customers and the employee of the home occupation shall visit the residence only between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday.

(6) On-site retail sales of goods shall be an accessory to services provided at the dwelling unit. This does not include retail sales of goods that are shipped or delivered to the customer off-site.

(7) Type I home occupations shall only occur in a single-family or two-family dwelling unit or within a structure accessory to a single-family or two-family residential building.

(8) No more than one Type I home occupation is permitted per dwelling unit. A separate Type II home occupation permit is allowed.

(9) Except as provided in Section 74-471(4), no customer or employee parking associated with the Type I home occupation shall occur in the right-of-way.

SECTION 13. — Section 74-472 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-472. — Type II Home occupation permit.

(a) Persons desiring to establish a Type II home occupation shall obtain a permit from the zoning administrator prior to the establishment of the home occupation.

(b) It is the responsibility of the zoning administrator to review, and when appropriate, issue permits for Type II home occupations.

(c) Type II home occupation permittees may operate multiple Type II home occupations under a single permit.

(d) Persons wishing to establish a home occupation shall submit to the zoning administrator an application for a Type II home occupation. The person applying (applicant) for a Type II home occupation shall provide the following information at the time of their application:

1. Assurance that they will comply with the standards contained in this article.

2. Contact information for the home occupation operator.

(e) Home occupations shall comply with all local, state and federal regulations pertinent to the business activity pursued. The granting of a permit under this section shall not be construed as an exemption from such regulations.

(f) Within 15 business days of receipt of a complete permit application, the zoning administrator will provide a written decision to the applicant regarding their application.
(g) The issuance of a home occupation permit is specific to the resident operating the home occupation, the location of the home occupation, and the type of home occupation. If any one of those three conditions are changed or altered, the home occupation permit is void.

SECTION 13. Section 74-472 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-472. – Type II Home occupation use limitations.

In addition to the use limitations listed in Sec 74-469, Type II home occupation shall have the following additional use limitations.

1. Type II home occupation shall only be conducted by a person residing in the dwelling with no assistance from other individuals or groups. There shall be no nonresident employees.

2. No routine customers or employees shall visit the location of a Type II home occupation.

3. Type II home occupation shall not conduct retail sales or wholesale transactions at the location of the home occupation. This does not include retail sales of goods that are shipped or delivered to customers off-site.

The Planning Commission has three options:

1. Recommend adoption of the proposed ordinance with the revisions suggested by staff or make additional revisions to the ordinance.

2. Resubmit the Commission’s original recommendation giving the reason for the resubmittal.

3. Take no action of the on the proposed ordinance. The governing body will take the Commission’s inaction as a resubmission of the original recommendation.
ORDINANCE NO. __________


WHEREAS, on January 8, 2018, the Governing Body of the City of Merriam, Kansas directed the Merriam Planning Commission to review the city’s zoning ordinances related to home occupations;

WHEREAS, all newspaper notifications were performed and the Planning Commission conducted a public hearing on the matter on March 7, 2018;

WHEREAS, at the same meeting the Planning Commission recommended that the Governing Body approve the proposed amendments.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS THAT:

SECTION 1. Section 74-3 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use. See section 74-421.

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

Agricultural uses means the use of a tract of land of not less than five acres for growing crops in the open; horticulture, floriculture and necessary accessory uses, including the structures necessary for carrying out farming operations and the residence of the person who owns or operates the farm, and the family thereof, except where specifically prohibited by city or state law; provided, however, such agricultural use shall not include the following uses:

(1) The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted.
(2) Wholesale or retail sales as an accessory use unless the same are specifically permitted by this chapter. Agriculture does not include the feeding of garbage to animals, the raising of poultry or fur bearing animals as a principal use or the operation or maintenance of a commercial stockyard or feed yard.

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

*Apparel stores* means stores selling new and/or used clothing for men, women or children at retail.

*Apartment house.* See *Dwelling, multiple-family.*

*Appliance repairs* means the repairing and servicing of common household appliances such as washing machines, television sets, power tools, electric razors, radios and refrigerators.

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

*Automobile accessory stores* means stores engaged primarily in the business of selling tires, batteries, seat covers and other automobile accessories.

*Automobile laundry* means a structure or portion thereof containing facilities for washing more than two automobiles, using production-line methods with a chain conveyor, blower, steam-cleaning device or other mechanical device.

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

*Automobile service station* means a structure and surrounding land used for the storage and sale of petroleum fuel primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs.

*Awnings* means a structure supported entirely from the exterior wall of a building, which is often used as an architectural detail or for the purpose of shielding a doorway or window from the elements. Awnings are composed of non-rigid materials (canvas, plastic) except for the supporting framework.

*Banks and financial institutions* mean commercial banks, savings and loan associations, brokerage offices and other similar financial institutions, but not including pawn shops.

*Beverage distributors* mean warehouses for the storage and distribution of beer, soft drinks and other beverages, but not including bottling plants and similar industrial uses.

*Block* means the land adjoining one side of a street between two consecutive junctions of said street with streets, railway rights-of-way or waterways crossing or meeting said side of said street.
Building means any covered structure built for the support, shelter or enclosure of persons, chattels or movable property of any kind and which is permanently affixed to the land.

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

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

Business and professional office means the office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

Business district or commercial district means any zoning district designated with a "C," for example "C-0," "C-1," etc.

Campground means an area or premises in which space is provided for transient occupancy or use by tourists occupying mobile homes, camping trailers or tents.

Canopy means a permanent structure, freestanding or extending from part or all of a building façade (generally overhanging a sidewalk) and often used to provide protection from sun or rain or as an architectural detail. Unlike awnings, canopies are composed of durable, rigid building materials, such as masonry, metal, wood or glass.

Capacity in persons means the maximum number of persons that can avail themselves of the services (or goods) of an establishment at any one time with reasonable comfort and safety.

Carport means a roofed automobile shelter consisting of a roof, post supports or one or more walls, attached or detached to a principal building. An attached garage or carport shall be subject to the same required setbacks as the main structure. Detached carports are considered accessory structures. A detached garage or carport shall be subject to the setbacks required for detached accessory buildings.

Commercial vehicle means a vehicle that is:

(1) With or without its own motive power;
(2) With a chassis rated greater than two ton;
(3) Dimensions exceeding 20 feet in total length, eight feet in total width, or seven feet in total height; and,
(4) Used primarily for the carrying of equipment, livestock, minerals, liquids, dirt, concrete, asphalt or other commodities, or the carrying of persons in the performance of a transportation service.

Commercial vehicles include trailers if said trailer is used for commercial purposes.

Common open space means an open green area designed and developed primarily for the use and benefit of the residents of the development for recreation, courts, gardens, or open space; it shall not include space devoted to public or private streets, and parking for residential and nonresidential uses.
Construction permit means an official document issued by the building official authorizing performance of specific activity related to the building trades.

Convenience store means the combined uses of an automobile service station and food stores as defined by this chapter. The consumption of food and beverage on the premises shall be prohibited.

Corner lot means the front of a corner lot shall be determined by the street address of the dwelling as designated at the time of the issuance of a building permit. A lot which adjoins the point of intersection or meeting of two or more streets and in which the interior angle formed by the street lines of 135 degrees or less. If the street lines are curved, the angle shall be measured at the point of intersection of the extensions of the street lines in the directions which they take at the intersections of the street line with the side lot line and with the rear lot line of the lot. If the street line is curved at its point of intersection with the side lot line or rear lot line, the tangent to the curve at that point shall be considered the direction of the street line. There shall be no rear yard as defined, and in such case the sides opposite the street sides shall be considered as side yards for setback purposes.

Day care center means a child care facility not operated from a single family home or residence. Typical uses include facilities that care for children, preschools, kindergartens not operated by public schools, and other establishments offering care to groups of children for part or all of the day or night, with specific exclusion of temporary or seasonal religious instructional schools, such as summer Bible school and church school classes. All day care centers must comply with state and county licensing requirements.

Density means the number of dwelling units per gross acre or per square feet of zoning lot area.

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

Drive-in establishment means an enterprise which accommodates patrons' automobiles and from which the occupants of the automobiles may make purchases, transact business, view motion pictures or other entertainment.

Dry cleaning (self-service) means an establishment providing facilities with which customers may dry clean their own clothes or other fabrics.

Dry cleaning plant means an establishment in which clothing and other fabrics are dry cleaned professionally.

Dwelling means a building or portion thereof, but not a mobile home, designed or used for a residential occupancy.

Dwelling, attached, means a residential building which is joined to another dwelling at one or more sides by a party wall.

Dwelling, detached, means a residential building which is entirely surrounded by open space on the same lot.
Dwelling, *multiple-family*, means a residential building containing three or more dwelling units.

Dwelling, *single-family*, means a residential building containing one dwelling unit only.

Dwelling, *two-family*, means a building containing two dwelling units only.

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

Environmental impact means conditions affecting the general welfare of people, and their surrounding environment.

Environmental impact study means a study of environmental impact regarding traffic, noise, lighting, parking, stormwater control and/or other aesthetic aspects.

Family means either:

(1) An individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or

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

Fence means a free-standing structure of metal, masonry, composition, wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening or partition purposes. (See section 74-94 also.)

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

(1) *For determining floor area ratio.* The sum of the following areas:

   a. The basement floor area when more than one-half of the basement height is above the finished lot grade level;

   b. Elevator shafts and stairwells at each floor;

   c. Floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof);

   d. Penthouses;

   e. Attic space having head room of seven feet, ten inches or more;

   f. Interior balconies and mezzanines;

   g. Enclosed porches; and

   h. Floor area devoted to accessory uses.

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

(2) For determining off-street parking and loading requirements. The sum of the following areas:

a. Floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks or closets;

b. Any basement floor area devoted to retailing activities; and

c. Floor area devoted to the production or processing of goods or for business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes (except as otherwise noted here), off-street parking or loading facilities, including aisles, ramps and maneuvering space, or basement floor area other than the area devoted to retailing activities, the production or processing of goods, or business or professional offices.

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

Fraternal and/or service clubs means an association formally organized for a common purpose or interest, and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. Foods, meals and beverages may be served on such premises, provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws.

Front lot line. See Lot line, front.

Front yard. See Yard, front.

Frontage means the length of a front lot line.

Garden stores means stores which sell growing plants, seeds, bulbs, shrubs, gardening and landscaping tools, implements and supplies, including lawn furniture.

Group home means any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the State of Kansas or otherwise permitted by law. Group Home also includes state-licensed Home Plus adult care residences or facilities.

Group residence means a residential facility providing cooking, sleeping, and sanitary accommodations for a group of people, not defined as a Family or Group home, on a weekly or
longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, children’s homes, and emergency shelters for the homeless and for victims of crime, abuse, or neglect.

*Height maximum* means a horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. No part of any structure shall project through such plane except:

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

*High rise* means a structure exceeding 40 feet in height.

*Home occupations.* See article X of this chapter (also section 74-81).

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

*Industrial district* means any zoning district designated with an "I-1."

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

*Landscaping* means the improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

*Laundry* means an establishment in which clothing and other fabrics are laundered professionally.

*Laundry (self-service)* means an establishment providing facilities with which customers may launder their own clothes or other fabrics.

*Lighting.* See section 74-244.

*Lot area* means the area of a horizontal plan bounded by the front, side and rear lot lines.

*Lot, corner.* See *Corner lot.*

*Lot coverage* means the percentage of a lot which, when viewed directly from above, would be covered by a structure, or any part thereof, excluding projecting roof eaves.

*Lot depth* means the distance between the midpoints of the front lot line and the midpoint of the rear lot line.

*Lot line, lot boundary line.* See *Lot line, front; Lot line, rear; Lot line, side.*

*Lot line, front,* means a street right-of-way line forming the boundary of a lot.
Lot line, rear, means the lot line that is most distant from and is, or is most nearly, parallel to the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front line.

Lot line, side, means a lot line which is neither a front lot line or a rear lot line.

Lot of record means a lot which is part of a subdivision, the plat of which has been recorded in the office of the register of deeds of the county, or a parcel of land the deed to which was recorded prior to adoption of this chapter. The owner of such a lot or parcel shall be deemed to be any equitable owner.

Lot size requirements means restrictions on the dimensions of lots including:

(1) Minimum lot area, width and depth; and
(2) Maximum density.

Minimum lot area, width and depth establish the size of the zoning lot on which a structure or use, or two or more structures or uses, may be constructed or established.

Lot width means the distance on a horizontal plane between the side lot lines, measured at right angles to the lot depth at the established front building line.

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

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

Manufactured home means a structure that:

(1) Is transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) Is subject to the federal manufactured home construction and safety standards established pursuant to 42 USC 5403.

Mini-storage facility means a building where the public may rent space for storage of personal property.

Mobile home means a structure that:

(1) Is transportable in one or more sections which, in the traveling mode, is eight body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when
connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) Is not subject to the federal manufactured home construction and safety standards established pursuant to 42 USC 5403.

*Modular home* means a structure that:

(1) Is transportable in one or more sections;
(2) Is not constructed on a permanent chassis;
(3) Is designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and
(4) Is certified by its manufacturer as being constructed in accordance with the Uniform Building Code and other related associated codes.

*Motor freight terminal* means a building or area in which a freight brought by truck is assembled and/or stored for routing in intrastate and interstate shipment by truck or in which semi-trailers, including tractor and/or trailer units, and other trucks are parked or stored.

*Nonconforming lot of record* means an unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.

*Nonconforming structure* means a structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.

*Nonconforming use* means an existing use of a structure or land which does not comply in some respect with the use regulations applicable to new uses in the zoning district in which it is located.

*Nonconformity* means a nonconforming use, nonconforming structure or a nonconforming lot of record.

*Nursing or convalescent home* means an institution for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism or narcotics addiction.

*Obstructions*. See section 74-94.

*Occupancy permit* means certificate of occupancy as defined in the building code.

*Office*. See *Business and professional office*.

*Open space* means an open green area designed for recreation, courts, gardens, or open space; it shall not include space devoted to public or private streets, or parking. (See *Common open space or public open space*.)

*Ornamental fence* means a decorative fence designed to permit the free passage of air and light and which is aesthetically compatible with the surrounding environment. Examples: wrought iron, split rail, picket.
Outdoor storage means any items not listed as permitted accessory or temporary uses under article VIII of this chapter when such items are left outside of an enclosed building for a period exceeding 48 hours.

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

Package liquor store means an establishment in which alcoholic beverages are sold for consumption off the premises.

Passenger vehicle means a vehicle that is:

1. Licensed for use on public streets;
2. Designed primarily for the private transportation of people as opposed to the carrying of a number of persons in the performance of a transportation service; and
3. Sold primarily to individuals for personal use.

This definition includes, but is not limited to, motorcycles, mopeds, motorscooters, automobiles commonly referred to as coupes, sedans, hatchbacks, station wagons, convertibles, minivans, passenger vans, cargo vans, and pickup trucks, any of which would not otherwise meet the definition of commercial vehicle or recreational vehicle as set forth herein.

Permit. See Construction permit and Occupancy permit.

Pharmacies means stores which sell drugs and medicine, and medical, surgical and dental supplies and appliances only.

Plat. See the subdivision regulations ordinance of the city.

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

Principal structure means a structure in which a principal use of the lot on which the structure is located is conducted.

Principal use means the main use of land or structures as distinguished from a subordinate or accessory use.

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

Public open space means a parcel of land or an area of water, or a combination of land and water dedicated to public use and available for the use and enjoyment of the general public. Public open space does not include streets, alleys, off-street parking or loading areas.
**Public sewer and water system** means any system, other than an individual septic tank, tile field or individual well, operated by a municipality or other governmental agency or a public utility for the disposal of waste and the furnishing of water on an individual system approved by the state board of health.

*Rear lot line. See Lot line, rear.*

*Rear yard. See Yard, rear.*

**Recreational vehicle (RV)** means a non-commercial vehicular-type unit which is:

1. Built on a chassis or for use on a chassis;

2. Designed primarily as temporary living quarters for recreational, camping, vacation or travel use; and

3. Has its own motive power or is mounted on or drawn by another vehicle.

This definition includes, but is not limited to, motor homes (Class A, B, or C), travel trailers, folding camping trailers, fifth wheel trailers, truck campers, passenger vehicles or buses specifically modified to meet the three conditions.

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

**Residential district** means any zoning district designated with an "R," for example, "R-1," "R-2," etc., or any planned development district that contains residential buildings.

**Residential building** means a building all or part of which contains one or more dwelling units, including single-family dwellings, two-family dwellings, multiple-family dwellings, lodging houses, mobile homes, dormitories, sororities and fraternities.

**Residential design manufactured home.** See section 50-19.

**Residential high rise** means any residential structure exceeding height limitations of those specified for R-4.

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

**Retail sales** means the sale of goods, merchandise, and commodities for use or consumption.

**Roomers and boarders** means those that pay a stipulated sum in return for lodging, which may or may not also include meals. The maximum amount of roomers and boarders permitted shall be determined by occupant load and floor area regulations contained in the building and housing codes.

**Screening** means decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet in height.
Setback means the distance between the front lot line and the outside wall of the principal building on the lot.

Side lot line. See Lot line, side.

Side yard. See Yard, side.

Sign means any writing (including letters, words, or numerals) pictorial representation (including illustrations or decorations), emblem (including devices, symbols or trademarks), flag, banner, streamer, pennant, string of lights or display calculated to attract the attention of the public or any other figure of similar character which:

1. Is a structure or any part thereof, or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground; and

2. Is used to announce, direct attention to or advertise; and

3. Is not located inside the building.

(See also section 53-6.)

Storage means the keeping of items, equipment, vehicles, trailers or materials for a period of time longer than would be involved in the normal day-to-day use or consumption of the same.

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

Subdivision regulations means the subdivision regulations ordinance of the city (chapter 62).

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

Temporary use. See section 74-449.

Theater means a fully-enclosed building wherein motion pictures are shown to the public on a fee basis. The term "theater" excludes live productions, live entertainment, plays and live musical productions. The content of motion pictures shall be governed by this Code.

Trailer means a vehicle standing on wheels or on rigid supports, which is used for transporting boats, cargo, or property and is designed to be towed by a passenger vehicle.

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

Use regulations means the provisions of this chapter which identify permitted and conditional uses, impose use limitations, require adherence to performance standards and regulate home occupations and accessory and temporary uses.

Utility trailer means a trailer with a gross vehicle weight of 2,000 pounds or less and is not required to be registered in the State of Kansas.
Vision clearance area means a triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in this chapter. The third side of a triangle is a line across the corner of the lot joining the ends of the two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings walls, structures, or temporary or permanent obstructions between 3½ feet and seven feet in height measured from the top of the curb. (See illustration in section 74-98.)

Wholesale sales means the sale of goods, merchandise and commodities for resale.

Width, lot. See Lot width.

Yard means open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for the permitted obstructions listed in section 74-94.

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

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

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

YMCA, YWCA, boy scouts, girl scouts, camp fire girls, and other similar groups means an association formally organized for a common purpose or interest, and operated not for profit for persons who are bona fide members, and which owns, hires or leases premises, the use of which premises is primarily utilized for the promotion of the common purpose or interest of the association. Food, meals and beverages may be served on such premises; provided, adequate dining rooms space and kitchen facilities are available. No alcoholic beverages may be consumed, served or sold on the premises.

Zoning administrator means the community development director who is charged with the administration and enforcement of the zoning regulations.

Zoning maps means the official zoning maps adopted by the city.

SECTION 2. Section 74-74 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-74. - Conditional uses.

No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to
another conditional use in such district unless a conditional use permit is secured pursuant to this chapter.

SECTION 3. Section 74-81 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-81. - Home occupations.

No home occupation, as defined by section 74-468, shall hereafter be established, altered or enlarged in any residential district unless such home occupation complies with the conditions and regulations set forth in article X of this chapter.

SECTION 4. Section 74-219 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-219. - R-1 Single-Family Residential District.

The R-1 Single-Family Residential District is designed to provide a single-family dwelling zone.

(1) Permitted uses.
   a. Agriculture, as defined in this chapter.
   b. Single-family dwellings.
   c. Parks and playgrounds.
   d. Accessory and temporary uses, as permitted by article VIII of this chapter.
   e. Group homes.

(2) Conditional uses.
   a. Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
   b. YMCA, YWCA and other similar uses, as defined in this chapter.
   c. Repealed.
   d. Group day care home, as defined in section 74-159.
   e. Day care home, as defined in section 74-159.
   f. Roomers and boarders.
   g. Churches, chapels, temples and synagogues.
   h. Schools: primary, intermediate and secondary.
   i. Church offices.

(3) Lot size requirements.
   a. Minimum lot area:
1. Single-family dwellings and group homes, R-1: 10,000 square feet of land.
2. All other permitted and conditional uses: 15,000 square feet of land.
3. Whenever one lot does not meet the required square footage to constitute one building lot to be developed by an individual landowner or developer and part or all of another lot is combined to meet the minimum lot size, a replat will not be required. However, where more than two building lots or a subdivision is proposed a replat must be approved.

b. Minimum lot width:
   1. Single-family dwellings and group homes, R-1: 75 feet.
   2. All other permitted and conditional uses: 75 feet.

c. Minimum lot depth: 100 feet.

(4) Bulk regulations.
   a. The maximum structure height: 35 feet.
   b. Yard requirements:
      1. Minimum front yard: 30 feet.
      2. Minimum side yards:
         (i) Residential buildings: seven feet on each side of the zoning lot.
         (ii) All other permitted and conditional uses: 15 feet on each side of the zoning lot, except accessory uses which shall be permitted and governed by article VIII of this chapter.
      4. Minimum structure size: Single story: 900 square feet, not to include garages, porches and unenclosed carports and basements except in architecturally designed split levels. Two story: 1250 square feet, not to include garages, porches and unenclosed carports and basements except in architecturally designed split levels.
   c. Off-street parking and loading. Off-street parking and loading as required in article XII of this chapter.

SECTION 5. Section 74-220 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-220. - R-2 Single-Family Residential District.

The R-2 Single-Family Residential District is designed to provide a single-family dwelling district on smaller building lots.

(1) Permitted uses.
   a. Agriculture, as defined in this chapter.
   b. Single-family dwellings.
c. Parks and playgrounds.
d. Accessory and temporary uses, as permitted by article VIII of this chapter.
e. Group homes.

(2) Conditional uses.

a. Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
b. YMCA, YWCA and other similar uses, as defined in this chapter.
c. Repealed.
d. Group day care home, as defined in section 74-159.
e. Churches, chapels, temples and synagogues.
f. Schools: primary, intermediate and secondary.
g. Church offices.
h. Day care home, as defined in section 74-159.

(3) Lot size requirements.

a. Minimum lot area:
   2. All other permitted and conditional uses: 15,000 square feet of land.
   3. Whenever one lot does not meet the required square footage to constitute one building lot to be developed by an individual landowner or developer, and part or all of another lot is combined to meet the minimum lot size, a replat will not be required. However, where more than two building lots or a subdivision is proposed, a replat must be approved.

b. Minimum lot width:
   1. Single-family dwellings and group homes, R-2: 70 feet.
   2. All other permitted and conditional uses: 70 feet.

c. Minimum lot depth: 100 feet.

(4) Bulk regulations.

a. The maximum structure height: 25 feet.
b. Yard requirements:
   1. Minimum front yard: 30 feet.
   2. Minimum side yards:
      (i) Residential buildings: seven feet on each side of the zoning lot.
      (ii) All other permitted and conditional uses: 15 feet on each side of the zoning lot, except accessory uses which shall be permitted and governed by article VIII of this chapter.
4. Minimum structure size:
   (i) Single story: 800 square feet per unit, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.
   (ii) Two story: 1,100 square feet per unit, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.

c. **Off-street parking and loading.** Off-street parking and loading as required by article XII of this chapter.

**SECTION 6.** Section 74-221 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-221. - R-3 Two-Family Residential District (duplex).

The R-3 Two-Family Residential District is designed to provide a two-family residential development.

(1) **Permitted uses.**
   b. Two-family dwellings, R-3.
   c. Parks and playgrounds.
   d. Accessory and temporary uses, as permitted by article VIII of this chapter.
   e. Signs, as permitted by chapter 53.
   f. Group homes, R-1.

(2) **Conditional uses.**
   a. Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
   b. Group day care home, as defined in section 74-159.
   c. Repealed.
   d. YMCA, YWCA and other similar uses, as defined in this chapter.
   e. Hospitals and other similar institutions, provided that they shall be screened from adjacent residential property and shall be located on an arterial street.
   f. Repealed.
   g. Repealed.
   h. Churches, chapels, temples and synagogues.
   i. Parks and playgrounds.
   j. Schools: primary, intermediate and secondary.
k. Church offices.

l. Day care home, as defined in section 74-159.

(3) **Lot size requirements.**

a. **Minimum lot area:**
   1. Single-family dwellings and group homes: 10,000 square feet of land area.
   2. Single-family attached dwellings and two-family dwellings: 6,250 square feet of land area per dwelling unit with the provision that no single lot may be less than 12,500 square feet in land area.
   3. All other permitted and conditional uses: 12,500 square feet of land.
   4. Whenever one lot does not meet the required square footage to constitute one building lot to be developed by an individual landowner or developer and part or all of another lot is combined to meet the minimum lot size, a replat will not be required. However, where more than two building lots or a subdivision is proposed a replat must be approved.

b. **Minimum lot width:**
   1. Single-family dwellings and group homes, R-1: 75 feet.
   2. Two-family dwellings R-3: 100 feet.
   3. All other permitted and conditional uses: 100 feet.

c. **Minimum lot depth:** 100 feet.

(4) **Bulk regulations.**

a. **Maximum structure height:** 40 feet.

b. **Yard requirements:**
   1. Minimum front yard: 30 feet.
   2. Minimum side yard:
      (i) Residential buildings: seven feet on each side of the zoning lot.
      (ii) All other permitted and conditional uses: 20 feet required on each side of the zoning lot, except accessory uses which shall be permitted and governed by article VIII of this chapter.
   4. Minimum structure size:
      (i) Single story: 1,100 square feet, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.
      (ii) Two story: 1,250 square feet, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.

c. **Off-street parking and loading.** Off-street parking and loading as required in article XII of this chapter.
(5) **Two-family lot splits.**

a. A lot split request for a legally described lot containing a two-family dwelling unit may be granted so long as such lot split occurs along the interior common wall of the unit and extends along such line to the edge of the lot. A lot split may be granted no more than one time for any given lot containing a two-family dwelling unit and shall only be permissible for those structures originally constructed as a two-family dwelling unit. Additionally, no lot split request will be approved unless, at the time of the requested split, the two-family dwelling unit and underlying lot are in compliance with sections 74-221(1) (Permitted uses), 74-221(3) (Lot size requirements) and 74-221(4) (Bulk regulations).

b. The standards for a two-family lot split are defined in article XIV, division 2 of the chapter 62, city subdivision regulations.

c. All structures that are properly shown on the two-family lot split application at the time of the application submittal, provided that their use and location do not change from the time that the lot-split application is filed with the community development department, shall be considered to be conforming to these zoning regulations after the two-family lot split has been filed with the county. Any future expansion of the structure must comply with all applicable zoning regulations.

**SECTION 7.** Section 74-225 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-225. - Condominium residential districts.

(a) **Definitions.** The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Condominium* means a residential building containing two or more dwelling units which shall be separately owned in fee, and shall be owner occupied. The land on which the building is built may be owned by the owner of a condominium within the building or by an association.

*Condominium residential district* means a zoning district designed exclusively for owner occupied single-family, two-family and multiple-family residential use. Every condominium residential district (CRD) shall be designated for one of the following uses:

1. Low density residential (L).
2. Moderate density residential (M).
3. High density residential (H).

(b) **Permitted uses.**

2. Two-family dwellings.
3. Multiple-family dwellings.
(4) Parks and playgrounds.
(5) Accessory and temporary uses, as permitted by article VIII of this chapter.
(6) Signs, as permitted by chapter 53.
(c) Conditional uses.
(1) Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
(2) Group day care home, as defined in section 74-159(b).
(3) Repealed.
(4) Churches, chapels, temples and synagogues.
(5) Schools: primary, intermediate and secondary.
(6) Church offices.
(7) Day care home, as defined in section 74-159(a).
(d) Lot size requirements and bulk regulations.
(1) Low density residential. Condominium residential districts designated for low density residential use (CRD-L) shall comply with the lot size requirements and bulk regulations contained in article III of this chapter, R-1 Single-Family Residential District, section 74-219, except that the density within the development shall not exceed 3½ units per acre.
(2) Moderate density residential. Condominium residential districts designated for moderate density residential use (CRD-M) shall comply with the lot size requirements and bulk regulations contained in article III of this chapter, R-3 Two-Family Residential District, section 74-221.
(3) High density residential. Condominium residential districts designated for high density residential use (CRD-H) shall comply with the lot size requirements and bulk regulations contained in article III of this chapter, R-4 Multiple-Family Residential District, section 74-222. The minimum lot size for any CRD-H development shall be not less than one acre in area.
(e) Review and approval process. All condominium residential districts shall be subject to the same review and approval procedures applicable to planned districts contained in section 74-296(b) and (c).

SECTION 8. Section 74-467 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-467. - Authorization.

A home occupation is permitted as an accessory use by the resident(s) of a dwelling subject to the provisions in this article. The use shall be incidental or subordinate to the residential use of the dwelling. The expressed intent behind regulating home occupations is as follows:
(1) To preserve the residential character of neighborhoods.

(2) To preserve the residential rights of neighbors, while reasonably allowing residents to utilize their dwelling to enhance or fulfill personal economic goals.

(3) To establish reasonable criteria for the operation of home occupations in dwelling units.

(4) To preserve and protect municipal and utility services such as streets, sewers and water systems against increased utilization typical in commercial districts.

(5) To preserve tranquility in neighborhoods and prevent nonresidential activities typically found in commercial districts.

SECTION 9. Section 74-468 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-468. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Type I home occupation means a business, profession, occupation or trade conducted, wholly or in part, within a single-family or a two-family dwelling unit or within a structure accessory to a single-family or two-family residential building in which an employee or customers routinely visit the residence. Examples include but are not limited to: counseling, tutoring, musical instruction, contractor office, and hair cutting/styling.

Type II home occupation means a home occupation an economic activity involving no routine customers or employees on the premises or the storage of tools or equipment for use off premises. A Type II home occupation is where the residence serves as the resident’s primary office has no discernable impact on the surrounding neighborhood and can occur in any typical dwelling unit. Examples include but are not limited to: writer, accountant, consultant, and computer programmer.

SECTION 10. Section 74-469 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-469. - Use limitations.

The following minimum use limitations shall apply to all home occupations:

(1) Except as provided in Sec. 74-469(7), no visible or audible evidence of the home occupation shall be apparent from the street, adjacent properties, or the surrounding area.

(2) There shall be no outdoor storage of stock, stock in trade, vehicles registered with or classified by the Kansas Department of Revenue with a gross vehicle weight of over 14,000 pounds, equipment, machinery or materials used in the business of the home occupation. Trailer parking done in conformance with this chapter is allowed.

(3) No more than 20 percent of the floor area of a dwelling unit shall be devoted to a home occupation.

(4) No mechanical or electrical equipment other than customary domestic or household equipment shall be used in the home occupation.
(5) A home occupation shall not create excessive noise, waste run-off, dust, dirt, smoke, odor, vibration, glare, heat or lighting that would be in excess of that created in the customary use of a residential dwelling.

(6) A home occupation shall not create interference with, or fluctuations of, radio or television transmissions in the neighborhood.

(7) Except as provided in Sec. 74-469(8), only signage permitted in Chapter 53 of the Merriam City code is allowed.

(8) Vehicles may have a total of three signs, one sign on the rear and one sign on each side of the vehicle. Each individual sign shall be no larger than six square feet.

(9) No alteration of the residential property, including buildings and structures, shall be permitted that would cause the property to lose its residential character or detract from the residential character of the neighborhood.

(10) No production, burning, dumping or storage of combustible, toxic or hazardous substances shall be allowed.

(11) No waste, refuse, trash, or waste byproduct generated off of the residential premises shall be dumped, disposed of, incinerated, burned or stored on the residential premises. Home occupations are not allowed commercial trash or regular dumpster services.

(12) No boarding houses, bed and breakfasts, or hotels.

(13) Other than vehicles and equipment owned by the resident, any type of repair or assembly of vehicles or equipment with internal combustion or electrical engines or of larger appliances or other work related to vehicles and their parts is prohibited.

(14) Home occupations may not serve as headquarters or dispatch centers where employees come to the home occupation and are dispatched to other locations.

(15) No funeral or interment services.

(16) No animal services.

(17) No restaurants; catering for off-premise consumption is allowed.

(18) Storage of construction vehicles or large equipment is not allowed at a home occupation. Trailer parking done in conformance with this chapter is allowed.

(18) Deliveries or pick-ups of supplies or products shall be by vehicles that normally perform deliveries or pick-ups in residential neighborhoods. Deliveries or pick-ups by a vehicle with more than two-axles or by a trailer is not allowed. Deliveries or pick-ups shall occur between 7:00 a.m. and 9:00 p.m.

SECTION 11. Section 74-470 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-470. – Type I Home occupation permit.

(a) Persons desiring to establish a Type I home occupation shall obtain a permit from the zoning administrator prior to the establishment of the home occupation.
(b) It is the responsibility of the zoning administrator to review, and when appropriate, issue permits for Type I home occupations.

(c) Persons wishing to establish a home occupation shall submit to the zoning administrator an application for a Type I home occupation permit. The persons applying (applicant) for a Type I home occupation shall provide the following information at the time of their application:

(1) Assurance that they will comply with the standards contained in this article.

(2) If the applicant intends to have visitors and/or an employee from outside of the residence, the applicant shall provide a site plan showing the location of the off street parking spaces to be utilized by any employee and/or visitors. Except as provided for in Sec 74-471(4), at no time shall the number of visitors and employee in the residence exceed the number of parking spaces dedicated for visitor and employee parking. Except as provided for in Sec 74-471(4), at no time shall vehicles associated with the home occupation be parked in the public right-of-way.

(3) The applicant shall send, by First Class Mail via the United States Postal Service, the “Notice of Proposed Home Occupation” to all property owners within 200 feet of the proposed location of the home occupation. At a minimum, the notice shall contain the date of mailing and the following information:

“In order to obtain a permit for a Home Occupation, and pursuant to Merriam Zoning Ordinances, I am required to notify all property owners within 200 feet of my home, located at Insert Address, Merriam, Kansas. Please consider this letter as formal notification of my intent to conduct insert description of type of home occupation. Should you have any questions regarding my Home Occupation, please contact me at (XXX) XXX-XXXX.

If you have any comments or concerns regarding my permit request, you may contact the Community Development Office at 913-322-5520 within the next 10 days. Understand that this letter does not grant the recipient and/or property owner any legal rights to challenge the proposed permit. This letter is being provided as a courtesy to inform you of my proposed plans.”

(4) The applicant will provide the list of property owners within 200 feet, a copy of the notice sent, and a signed and notarized affidavit attesting that the notice requirements have been met.

(5) Home occupations shall comply with all local, state and federal regulations pertinent to the business activity pursued, including the requirement of a business license as set forth in Merriam Code. The granting of a permit under this section shall not be construed as an exemption from such regulations.

(6) The permit application shall be signed by the property owner or the property owner’s designee.

(d) Within 15 business days of receipt of a complete permit application, the zoning administrator shall provide a written decision to the applicant regarding their application.

(e) The issuance of a home occupation permit is specific to the resident operating the home occupation, the location of the home occupation, and the type of home occupation. If any one of those conditions are changed or altered, the home occupation permit is void.
SECTION 12. Section 74-471 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-471. – Type I Home occupation use limitations.

In addition to the use limitations listed in Sec 74-469, Type I home occupation shall have the following additional use limitations.

1. One nonresident employee is allowed. A “nonresident employee” includes an employee, business partner, co-owner, or other person affiliated with the Type I home occupation who does not live at the dwelling but regularly routinely visits the site as part of the home occupation.

2. Only 10 customers or clients may visit the dwelling unit in a day.

3. No more than three customers or clients can be present at the dwelling unit at the same time.

4. Group gatherings or meetings (involving more than one customer or client) may be held at the location of the home occupation no more frequently than one time per month and shall be held inside the home occupation dwelling unit or its accessory structure. Parking for these events can occur in the right-of-way in areas where parking is not prohibited.

5. Patrons Customers and the employee of the home occupation shall visit the residence only between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday.

6. On-site retail sales of goods shall be an accessory to services provided at the dwelling unit. This does not include retail sales of goods that are shipped or delivered to the customer off-site.

7. Type I home occupations shall only occur in a single-family or two-family dwelling unit or within a structure accessory to a single-family or two-family residential building.

8. No more than one Type I home occupation is permitted per dwelling unit. A separate Type II home occupation permit is allowed.

9. Except as provided in Section 74-471(4), no customer or employee parking associated with the Type I home occupation shall occur in the right-of-way.

SECTION 13. Section 74-472 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-472. – Type II Home occupation permit.

(a) Persons desiring to establish a Type II home occupation shall obtain a permit from the zoning administrator prior to the establishment of the home occupation.

(b) It is the responsibility of the zoning administrator to review, and when appropriate, issue permits for Type II home occupations.

(c) Type II home occupation permittees may operate multiple Type II home occupations under a single permit.
(d) Persons wishing to establish a home occupation shall submit to the zoning administrator an application for a Type II home occupation. The person applying (applicant) for a Type II home occupation shall provide the following information at the time of their application:

(1) Assurance that they will comply with the standards contained in this article.

(2) Contact information for the home occupation operator.

(e) Home occupations shall comply with all local, state and federal regulations pertinent to the business activity pursued. The granting of a permit under this section shall not be construed as an exemption from such regulations.

(f) Within 15 business days of receipt of a complete permit application, the zoning administrator will provide a written decision to the applicant regarding their application.

(g) The issuance of a home occupation permit is specific to the resident operating the home occupation, the location of the home occupation, and the type of home occupation. If any one of those three conditions are changed or altered, the home occupation permit is void.

SECTION 13. Section 74-472 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-472. – Type II Home occupation use limitations.

In addition to the use limitations listed in Sec 74-469, Type II home occupation shall have the following additional use limitations.

(1) Type II home occupation shall only be conducted by a person residing in the dwelling with no assistance from other individuals or groups. There shall be no nonresident employees.

(2) No routine customers or employees shall visit the location of a Type II home occupation.

(3) Type II home occupation shall not conduct retail sales or wholesale transactions at the location of the home occupation. This does not include retail sales of goods that are shipped or delivered to customers off-site.

SECTION 14. Section 74-473 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-473. – Type I home occupation permit renewal.

All home occupation permits shall be subject to renewal every five years.

(1) If there has been a complaint, violation, or a change in the home occupation during the previous five years, then the renewal will be considered by the zoning administrator. No later than 30 days prior to the date for renewal, the zoning administrator shall send the home occupation permit holder written notice, sent via United States Postal Service, informing the permit holder that his home occupation is in need of renewal and the renewal must be considered by the zoning administrator. The written notice shall state the reason (complaint, violation, or change in business) the renewal must be considered by the zoning administrator. The written notice shall also include an application for renewal and a deadline by which the community development department must receive
the form. The deadline for receiving the renewal application shall be a minimum of 14 calendar days from the date of the renewal notice. Upon receiving the completed application and associated fees, within 10 business days the zoning administrator shall provide the applicant a written decision regarding the permit renewal.

(2) If there have been no complaints, violations, or a change in the home occupation during the previous five years, the zoning administrator shall review the home occupation. If no complaints, violations, or changes have occurred in the previous five years and, if applicable, the home occupation has a valid city business license, the zoning administrator shall renew the home occupation permit for another five-year period and notify the permit holder in writing of the renewal.

**SECTION 15.** Section 74-474 is added to the Code of Ordinances of the City of Merriam, Kansas to read as follows:

Sec. 74-474. - Complaints and permit revocation.

(a) Complaints concerning home occupations shall be made to the community development department of the city, or may be initiated by the city. Any person in violation of the provisions of this article shall be notified by the zoning administrator, or a member of his department, of the violation. The violation notice shall be sent via United States Postal Service to the address listed on the home occupation application. The notice shall state that the home occupation permit holder has 10 business days from the date of the notice to cure the violation indicted therein.

(b) In the event such violation is not cured within the time specified in the violation, a written revocation notice shall be sent to the home occupation permit holder. The revocation notice will be sent via registered mail to the address listed on the home occupation application and shall state the date on which such home occupation permit revocation shall be effective. The revocation notice shall further state that any person who is aggrieved by the determination that a violation exists may appeal to the planning commission as described in this article.

**SECTION 16.** Section 74-475 is added to the Code of Ordinances of the City of Merriam, Kansas to read as follows:

Sec. 74-475. - Appeals.

In the event an application for or request for renewal of a home occupation permit is denied by the zoning administrator, the applicant may appeal to the planning commission by written notice of appeal to the zoning administrator within ten days of the date upon which written denial was issued. If an appeal is filed, the planning commission shall schedule and hold a hearing within 60 days of the filing date of the appeal. The planning commission shall uphold or reverse the determination that a home occupation violation exists, and if such violation is found to exist, revoke the home occupation permit. Any party aggrieved by such appeal finding may further appeal to the district court of the county pursuant to K.S.A. 60-2101(d).

**SECTION 17.** **Existing Sections.** Those sections of Chapter 74 of the Code of Ordinances of the City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.
SECTION 18. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance and the Governing Body hereby declares that it would have passed the remaining portions of this Ordinance if it would have known that such part or parts thereof would be declared invalid.


SECTION 20. Take Effect. This ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED by the Governing Body this 9th day of April, 2018.

APPROVED AND SIGNED by the Mayor this 9th day of April, 2018.

(Seal) Ken Sissom, Mayor

ATTEST:

Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

Nicole Proulx Aiken, City Attorney
ORDINANCE NO. __________


WHEREAS, on January 8, 2018, the Governing Body of the City of Merriam, Kansas directed the Merriam Planning Commission to review the city’s zoning ordinances related to home occupations;

WHEREAS, all newspaper notifications were performed and the Planning Commission conducted a public hearing on the matter on March 7, 2018;

WHEREAS, at the same meeting the Planning Commission recommended that the Governing Body approve the proposed amendments.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS THAT:

SECTION 1. Section 74-3 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use. See section 74-421.

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

Agricultural uses means the use of a tract of land of not less than five acres for growing crops in the open; horticulture, floriculture and necessary accessory uses, including the structures necessary for carrying out farming operations and the residence of the person who owns or operates the farm, and the family thereof, except where specifically prohibited by city or state law; provided, however, such agricultural use shall not include the following uses:

(1) The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted.
(2) Wholesale or retail sales as an accessory use unless the same are specifically permitted by this chapter. Agriculture does not include the feeding of garbage to animals, the raising of poultry or fur bearing animals as a principal use or the operation or maintenance of a commercial stockyard or feed yard.

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

Apparel stores means stores selling new and/or used clothing for men, women or children at retail.

Apartment house. See Dwelling, multiple-family.

Appliance repairs means the repairing and servicing of common household appliances such as washing machines, television sets, power tools, electric razors, radios and refrigerators.

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

Automobile accessory stores means stores engaged primarily in the business of selling tires, batteries, seat covers and other automobile accessories.

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

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

Automobile service station means a structure and surrounding land used for the storage and sale of petroleum fuel primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs.

Awning means a structure supported entirely from the exterior wall of a building, which is often used as an architectural detail or for the purpose of shielding a doorway or window from the elements. Awnings are composed of non-rigid materials (canvas, plastic) except for the supporting framework.

Banks and financial institutions mean commercial banks, savings and loan associations, brokerage offices and other similar financial institutions, but not including pawn shops.

Beverage distributors mean warehouses for the storage and distribution of beer, soft drinks and other beverages, but not including bottling plants and similar industrial uses.

Block means the land adjoining one side of a street between two consecutive junctions of said street with streets, railway rights-of-way or waterways crossing or meeting said side of said street.
Building means any covered structure built for the support, shelter or enclosure of persons, chattels or movable property of any kind and which is permanently affixed to the land.

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

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

Business and professional office means the office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect or other similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

Business district or commercial district means any zoning district designated with a "C," for example "C-0," "C-1," etc.

Campground means an area or premises in which space is provided for transient occupancy or use by tourists occupying mobile homes, camping trailers or tents.

Canopy means a permanent structure, freestanding or extending from part or all of a building façade (generally overhanging a sidewalk) and often used to provide protection from sun or rain or as an architectural detail. Unlike awnings, canopies are composed of durable, rigid building materials, such as masonry, metal, wood or glass.

Capacity in persons means the maximum number of persons that can avail themselves of the services (or goods) of an establishment at any one time with reasonable comfort and safety.

Carport means a roofed automobile shelter consisting of a roof, post supports or one or more walls, attached or detached to a principal building. An attached garage or carport shall be subject to the same required setbacks as the main structure. Detached carports are considered accessory structures. A detached garage or carport shall be subject to the setbacks required for detached accessory buildings.

Commercial vehicle means a vehicle that is:

1. With or without its own motive power;
2. With a chassis rated greater than two ton;
3. Dimensions exceeding 20 feet in total length, eight feet in total width, or seven feet in total height; and,
4. Used primarily for the carrying of equipment, livestock, minerals, liquids, dirt, concrete, asphalt or other commodities, or the carrying of persons in the performance of a transportation service.

Commercial vehicles include trailers if said trailer is used for commercial purposes.

Common open space means an open green area designed and developed primarily for the use and benefit of the residents of the development for recreation, courts, gardens, or open space; it shall not include space devoted to public or private streets, and parking for residential and nonresidential uses.
*Construction permit* means an official document issued by the building official authorizing performance of specific activity related to the building trades.

*Convenience store* means the combined uses of an automobile service station and food stores as defined by this chapter. The consumption of food and beverage on the premises shall be prohibited.

*Corner lot* means the front of a corner lot shall be determined by the street address of the dwelling as designated at the time of the issuance of a building permit. A lot which adjoins the point of intersection or meeting of two or more streets and in which the interior angle formed by the street lines of 135 degrees or less. If the street lines are curved, the angle shall be measured at the point of intersection of the extensions of the street lines in the directions which they take at the intersections of the street line with the side lot line and with the rear lot line of the lot. If the street line is curved at its point of intersection with the side lot line or rear lot line, the tangent to the curve at that point shall be considered the direction of the street line. There shall be no rear yard as defined, and in such case the sides opposite the street sides shall be considered as side yards for setback purposes.

*Day care center* means a child care facility not operated from a single family home or residence. Typical uses include facilities that care for children, preschools, kindergartens not operated by public schools, and other establishments offering care to groups of children for part or all of the day or night, with specific exclusion of temporary or seasonal religious instructional schools, such as summer Bible school and church school classes. All day care centers must comply with state and county licensing requirements.

*Density* means the number of dwelling units per gross acre or per square feet of zoning lot area.

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

*Drive-in establishment* means an enterprise which accommodates patrons' automobiles and from which the occupants of the automobiles may make purchases, transact business, view motion pictures or other entertainment.

*Dry cleaning (self-service)* means an establishment providing facilities with which customers may dry clean their own clothes or other fabrics.

*Dry cleaning plant* means an establishment in which clothing and other fabrics are dry cleaned professionally.

*Dwelling* means a building or portion thereof, but not a mobile home, designed or used for a residential occupancy.

*Dwelling, attached,* means a residential building which is joined to another dwelling at one or more sides by a party wall.

*Dwelling, detached,* means a residential building which is entirely surrounded by open space on the same lot.
Dwelling, multiple-family, means a residential building containing three or more dwelling units.

Dwelling, single-family, means a residential building containing one dwelling unit only.

Dwelling, two-family, means a building containing two dwelling units only.

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

Environmental impact means conditions affecting the general welfare of people, and their surrounding environment.

Environmental impact study means a study of environmental impact regarding traffic, noise, lighting, parking, stormwater control and/or other aesthetic aspects.

Family means either:

(1) An individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or

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

Fence means a free-standing structure of metal, masonry, composition, wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening or partition purposes. (See section 74-94 also.)

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

(1) For determining floor area ratio. The sum of the following areas:

   a. The basement floor area when more than one-half of the basement height is above the finished lot grade level;

   b. Elevator shafts and stairwells at each floor;

   c. Floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof);

   d. Penthouses;

   e. Attic space having head room of seven feet, ten inches or more;

   f. Interior balconies and mezzanines;

   g. Enclosed porches; and

   h. Floor area devoted to accessory uses.

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

(2) **For determining off-street parking and loading requirements.** The sum of the following areas:

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

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

*Fraternal and/or service clubs* means an association formally organized for a common purpose or interest, and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting. Foods, meals and beverages may be served on such premises, provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws.

*Front lot line. See Lot line, front.*

*Front yard. See Yard, front.*

*Frontage means the length of a front lot line.*

*Garden stores* means stores which sell growing plants, seeds, bulbs, shrubs, gardening and landscaping tools, implements and supplies, including lawn furniture.

*Group home* means any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the State of Kansas or otherwise permitted by law. Group Home also includes state-licensed Home Plus adult care residences or facilities.

*Group residence* means a residential facility providing cooking, sleeping, and sanitary accommodations for a group of people, not defined as a Family or Group home, on a weekly or
longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, children’s homes, and emergency shelters for the homeless and for victims of crime, abuse, or neglect.

*Height maximum* means a horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. No part of any structure shall project through such plane except:

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

*High rise* means a structure exceeding 40 feet in height.

*Home occupations.* See article X of this chapter (also section 74-81).

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

*Industrial district* means any zoning district designated with an "I-1."

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

*Landscaping* means the improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

*Laundry* means an establishment in which clothing and other fabrics are laundered professionally.

*Laundry (self-service)* means an establishment providing facilities with which customers may launder their own clothes or other fabrics.

*Lighting.* See section 74-244.

*Lot area* means the area of a horizontal plan bounded by the front, side and rear lot lines.

*Lot, corner.* See *Corner lot.*

*Lot coverage* means the percentage of a lot which, when viewed directly from above, would be covered by a structure, or any part thereof, excluding projecting roof eaves.

*Lot depth* means the distance between the midpoints of the front lot line and the midpoint of the rear lot line.

*Lot line, lot boundary line.* See *Lot line, front; Lot line, rear; Lot line, side.*

*Lot line, front,* means a street right-of-way line forming the boundary of a lot.
*Lot line, rear,* means the lot line that is most distant from and is, or is most nearly, parallel to the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front line.

*Lot line, side,* means a lot line which is neither a front lot line or a rear lot line.

*Lot of record* means a lot which is part of a subdivision, the plat of which has been recorded in the office of the register of deeds of the county, or a parcel of land the deed to which was recorded prior to adoption of this chapter. The owner of such a lot or parcel shall be deemed to be any equitable owner.

*Lot size requirements* means restrictions on the dimensions of lots including:

(1) Minimum lot area, width and depth; and

(2) Maximum density.

Minimum lot area, width and depth establish the size of the zoning lot on which a structure or use, or two or more structures or uses, may be constructed or established.

*Lot width* means the distance on a horizontal plane between the side lot lines, measured at right angles to the lot depth at the established front building line.

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

(1) A single lot of record;

(2) A portion of a lot of record; or

(3) A combination of complete lots of records, complete lots and portions of lots of records, or portions of lots of records.

*Manufactured home* means a structure that:

(1) Is transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) Is subject to the federal manufactured home construction and safety standards established pursuant to 42 USC 5403.

*Mini-storage facility* means a building where the public may rent space for storage of personal property.

*Mobile home* means a structure that:

(1) Is transportable in one or more sections which, in the traveling mode, is eight body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when
connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) Is not subject to the federal manufactured home construction and safety standards established pursuant to 42 USC 5403.

*Modular home* means a structure that:

(1) Is transportable in one or more sections;

(2) Is not constructed on a permanent chassis;

(3) Is designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(4) Is certified by its manufacturer as being constructed in accordance with the Uniform Building Code and other related associated codes.

*Motor freight terminal* means a building or area in which a freight brought by truck is assembled and/or stored for routing in intrastate and interstate shipment by truck or in which semi-trailers, including tractor and/or trailer units, and other trucks are parked or stored.

*Nonconforming lot of record* means an unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.

*Nonconforming structure* means a structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.

*Nonconforming use* means an existing use of a structure or land which does not comply in some respect with the use regulations applicable to new uses in the zoning district in which it is located.

*Nonconformity* means a nonconforming use, nonconforming structure or a nonconforming lot of record.

*Nursing or convalescent home* means an institution for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders, but not including facilities for surgical care or institutions for the care and treatment of mental illness, alcoholism or narcotics addiction.

*Obstructions*. See section 74-94.

*Occupancy permit* means certificate of occupancy as defined in the building code.

*Office*. See *Business and professional office*.

*Open space* means an open green area designed for recreation, courts, gardens, or open space; it shall not include space devoted to public or private streets, or parking. (See *Common open space or public open space*.)

*Ornamental fence* means a decorative fence designed to permit the free passage of air and light and which is aesthetically compatible with the surrounding environment. Examples: wrought iron, split rail, picket.
Outdoor storage means any items not listed as permitted accessory or temporary uses under article VIII of this chapter when such items are left outside of an enclosed building for a period exceeding 48 hours.

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

Package liquor store means an establishment in which alcoholic beverages are sold for consumption off the premises.

Passenger vehicle means a vehicle that is:

1. Licensed for use on public streets;
2. Designed primarily for the private transportation of people as opposed to the carrying of a number of persons in the performance of a transportation service; and
3. Sold primarily to individuals for personal use.

This definition includes, but is not limited to, motorcycles, mopeds, motorscooters, automobiles commonly referred to as coupes, sedans, hatchbacks, station wagons, convertibles, minivans, passenger vans, cargo vans, and pickup trucks, any of which would not otherwise meet the definition of commercial vehicle or recreational vehicle as set forth herein.

Permit. See Construction permit and Occupancy permit.

Pharmacies means stores which sell drugs and medicine, and medical, surgical and dental supplies and appliances only.

Plat. See the subdivision regulations ordinance of the city.

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

Principal structure means a structure in which a principal use of the lot on which the structure is located is conducted.

Principal use means the main use of land or structures as distinguished from a subordinate or accessory use.

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

Public open space means a parcel of land or an area of water, or a combination of land and water dedicated to public use and available for the use and enjoyment of the general public. Public open space does not include streets, alleys, off-street parking or loading areas.
Public sewer and water system means any system, other than an individual septic tank, tile field or individual well, operated by a municipality or other governmental agency or a public utility for the disposal of waste and the furnishing of water on an individual system approved by the state board of health.

Rear lot line. See Lot line, rear.

Rear yard. See Yard, rear.

Recreational vehicle (RV) means a non-commercial vehicular-type unit which is:

1. Built on a chassis or for use on a chassis;
2. Designed primarily as temporary living quarters for recreational, camping, vacation or travel use; and
3. Has its own motive power or is mounted on or drawn by another vehicle.

This definition includes, but is not limited to, motor homes (Class A, B, or C), travel trailers, folding camping trailers, fifth wheel trailers, truck campers, passenger vehicles or buses specifically modified to meet the three conditions.

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

Residential district means any zoning district designated with an "R," for example, "R-1," "R-2," etc., or any planned development district that contains residential buildings.

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

Residential design manufactured home. See section 50-19.

Residential high rise means any residential structure exceeding height limitations of those specified for R-4.

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

Retail sales means the sale of goods, merchandise, and commodities for use or consumption.

Roomers and boarders means those that pay a stipulated sum in return for lodging, which may or may not also include meals. The maximum amount of roomers and boarders permitted shall be determined by occupant load and floor area regulations contained in the building and housing codes.

Screening means decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet in height.
Setback means the distance between the front lot line and the outside wall of the principal building on the lot.

Side lot line. See Lot line, side.

Side yard. See Yard, side.

Sign means any writing (including letters, words, or numerals) pictorial representation (including illustrations or decorations), emblem (including devices, symbols or trademarks), flag, banner, streamer, pennant, string of lights or display calculated to attract the attention of the public or any other figure of similar character which:

(1) Is a structure or any part thereof, or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground; and

(2) Is used to announce, direct attention to or advertise; and

(3) Is not located inside the building.

(See also section 53-6.)

Storage means the keeping of items, equipment, vehicles, trailers or materials for a period of time longer than would be involved in the normal day-to-day use or consumption of the same.

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

Subdivision regulations means the subdivision regulations ordinance of the city (chapter 62).

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

Temporary use. See section 74-449.

Theater means a fully-enclosed building wherein motion pictures are shown to the public on a fee basis. The term "theater" excludes live productions, live entertainment, plays and live musical productions. The content of motion pictures shall be governed by this Code.

Trailer means a vehicle standing on wheels or on rigid supports, which is used for transporting boats, cargo, or property and is designed to be towed by a passenger vehicle.

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

Use regulations means the provisions of this chapter which identify permitted and conditional uses, impose use limitations, require adherence to performance standards and regulate home occupations and accessory and temporary uses.

Utility trailer means a trailer with a gross vehicle weight of 2,000 pounds or less and is not required to be registered in the State of Kansas.
**Vision clearance area** means a triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in this chapter. The third side of a triangle is a line across the corner of the lot joining the ends of the two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings walls, structures, or temporary or permanent obstructions between 3½ feet and seven feet in height measured from the top of the curb. (See illustration in section 74-98.)

**Wholesale sales** means the sale of goods, merchandise and commodities for resale.

**Width, lot.** See **Lot width.**

**Yard** means open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for the permitted obstructions listed in section 74-94.

**Yard, front,** means a yard extending along the full length of a front lot line and back to a line drawn parallel to the front lot line at a distance from there equal to the depth of the required front yard.

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

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

**YMCA, YWCA, boy scouts, girl scouts, camp fire girls, and other similar groups** means an association formally organized for a common purpose or interest, and operated not for profit for persons who are bona fide members, and which owns, hires or leases premises, the use of which premises is primarily utilized for the promotion of the common purpose or interest of the association. Food, meals and beverages may be served on such premises; provided, adequate dining rooms space and kitchen facilities are available. No alcoholic beverages may be consumed, served or sold on the premises.

**Zoning administrator** means the community development director who is charged with the administration and enforcement of the zoning regulations.

**Zoning maps** means the official zoning maps adopted by the city.

**SECTION 2.** Section 74-74 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-74. - Conditional uses.

No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to
another conditional use in such district unless a conditional use permit is secured pursuant to this chapter.

**SECTION 3.** Section 74-81 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-81. - Home occupations.

No home occupation, as defined by section 74-468, shall hereafter be established, altered or enlarged in any residential district unless such home occupation complies with the conditions and regulations set forth in article X of this chapter.

**SECTION 4.** Section 74-219 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-219. - R-1 Single-Family Residential District.

The R-1 Single-Family Residential District is designed to provide a single-family dwelling zone.

1. **Permitted uses.**
   a. Agriculture, as defined in this chapter.
   b. Single-family dwellings.
   c. Parks and playgrounds.
   d. Accessory and temporary uses, as permitted by article VIII of this chapter.
   e. Group homes.

2. **Conditional uses.**
   a. Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
   b. YMCA, YWCA and other similar uses, as defined in this chapter.
   c. Repealed.
   d. Group day care home, as defined in section 74-159.
   e. Day care home, as defined in section 74-159.
   f. Roomers and boarders.
   g. Churches, chapels, temples and synagogues.
   h. Schools: primary, intermediate and secondary.
   i. Church offices.

3. **Lot size requirements.**
   a. *Minimum lot area*:
1. Single-family dwellings and group homes, R-1: 10,000 square feet of land.
2. All other permitted and conditional uses: 15,000 square feet of land.
3. Whenever one lot does not meet the required square footage to constitute one building lot to be developed by an individual landowner or developer and part or all of another lot is combined to meet the minimum lot size, a replat will not be required. However, where more than two building lots or a subdivision is proposed a replat must be approved.

b. **Minimum lot width:**
   1. Single-family dwellings and group homes, R-1: 75 feet.
   2. All other permitted and conditional uses: 75 feet.

c. **Minimum lot depth:** 100 feet.

(4) **Bulk regulations.**
   a. **The maximum structure height:** 35 feet.
   b. **Yard requirements:**
      1. Minimum front yard: 30 feet.
      2. Minimum side yards:
         (i) Residential buildings: seven feet on each side of the zoning lot.
         (ii) All other permitted and conditional uses: 15 feet on each side of the zoning lot, except accessory uses which shall be permitted and governed by article VIII of this chapter.
      4. Minimum structure size: Single story: 900 square feet, not to include garages, porches and unenclosed carports and basements except in architecturally designed split levels. Two story: 1250 square feet, not to include garages, porches and unenclosed carports and basements except in architecturally designed split levels.
   c. **Off-street parking and loading.** Off-street parking and loading as required in article XII of this chapter.

**SECTION 5.** Section 74-220 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-220. - R-2 Single-Family Residential District.

The R-2 Single-Family Residential District is designed to provide a single-family dwelling district on smaller building lots.

(1) **Permitted uses.**
   a. Agriculture, as defined in this chapter.
   b. Single-family dwellings.
c. Parks and playgrounds.
d. Accessory and temporary uses, as permitted by article VIII of this chapter.
e. Group homes.

(2) Conditional uses.
a. Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
b. YMCA, YWCA and other similar uses, as defined in this chapter.
c. Repealed.
d. Group day care home, as defined in section 74-159.
e. Churches, chapels, temples and synagogues.
f. Schools: primary, intermediate and secondary.
g. Church offices.
h. Day care home, as defined in section 74-159.

(3) Lot size requirements.
a. Minimum lot area:
   2. All other permitted and conditional uses: 15,000 square feet of land.
   3. Whenever one lot does not meet the required square footage to constitute one building lot to be developed by an individual landowner or developer, and part or all of another lot is combined to meet the minimum lot size, a replat will not be required. However, where more than two building lots or a subdivision is proposed, a replat must be approved.
b. Minimum lot width:
   1. Single-family dwellings and group homes, R-2: 70 feet.
   2. All other permitted and conditional uses: 70 feet.
c. Minimum lot depth: 100 feet.

(4) Bulk regulations.
a. The maximum structure height: 25 feet.
b. Yard requirements:
   1. Minimum front yard: 30 feet.
   2. Minimum side yards:
      (i) Residential buildings: seven feet on each side of the zoning lot.
      (ii) All other permitted and conditional uses: 15 feet on each side of the zoning lot, except accessory uses which shall be permitted and governed by article VIII of this chapter.
4. Minimum structure size:
   (i) Single story: 800 square feet per unit, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.
   (ii) Two story: 1,100 square feet per unit, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.

c. Off-street parking and loading. Off-street parking and loading as required by article XII of this chapter.

SECTION 6. Section 74-221 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-221. - R-3 Two-Family Residential District (duplex).

The R-3 Two-Family Residential District is designed to provide a two-family residential development.

(1) Permitted uses.
   b. Two-family dwellings, R-3.
   c. Parks and playgrounds.
   d. Accessory and temporary uses, as permitted by article VIII of this chapter.
   e. Signs, as permitted by chapter 53.
   f. Group homes, R-1.

(2) Conditional uses.
   a. Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
   b. Group day care home, as defined in section 74-159.
   c. Repealed.
   d. YMCA, YWCA and other similar uses, as defined in this chapter.
   e. Hospitals and other similar institutions, provided that they shall be screened from adjacent residential property and shall be located on an arterial street.
   f. Repealed.
   g. Repealed.
   h. Churches, chapels, temples and synagogues.
   i. Parks and playgrounds.
   j. Schools: primary, intermediate and secondary.
k. Church offices.
l. Day care home, as defined in section 74-159.

(3) **Lot size requirements.**

a. **Minimum lot area:**
   1. Single-family dwellings and group homes: 10,000 square feet of land area.
   2. Single-family attached dwellings and two-family dwellings: 6,250 square feet of land area per dwelling unit with the provision that no single lot may be less than 12,500 square feet in land area.
   3. All other permitted and conditional uses: 12,500 square feet of land.
   4. Whenever one lot does not meet the required square footage to constitute one building lot to be developed by an individual landowner or developer and part or all of another lot is combined to meet the minimum lot size, a replat will not be required. However, where more than two building lots or a subdivision is proposed a replat must be approved.

b. **Minimum lot width:**
   1. Single-family dwellings and group homes, R-1: 75 feet.
   2. Two-family dwellings R-3: 100 feet.
   3. All other permitted and conditional uses: 100 feet.

c. **Minimum lot depth:** 100 feet.

(4) **Bulk regulations.**

a. **Maximum structure height:** 40 feet.

b. **Yard requirements:**
   1. Minimum front yard: 30 feet.
   2. Minimum side yard:
      (i) Residential buildings: seven feet on each side of the zoning lot.
      (ii) All other permitted and conditional uses: 20 feet required on each side of the zoning lot, except accessory uses which shall be permitted and governed by article VIII of this chapter.
   4. Minimum structure size:
      (i) Single story: 1,100 square feet, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.
      (ii) Two story: 1,250 square feet, not to include garages, porches, unenclosed carports and basements except in architecturally designed split levels.

c. **Off-street parking and loading.** Off-street parking and loading as required in article XII of this chapter.
(5) **Two-family lot splits.**

a. A lot split request for a legally described lot containing a two-family dwelling unit may be granted so long as such lot split occurs along the interior common wall of the unit and extends along such line to the edge of the lot. A lot split may be granted no more than one time for any given lot containing a two-family dwelling unit and shall only be permissible for those structures originally constructed as a two-family dwelling unit. Additionally, no lot split request will be approved unless, at the time of the requested split, the two-family dwelling unit and underlying lot are in compliance with sections 74-221(1) (Permitted uses), 74-221(3) (Lot size requirements) and 74-221(4) (Bulk regulations).

b. The standards for a two-family lot split are defined in article XIV, division 2 of the chapter 62, city subdivision regulations.

c. All structures that are properly shown on the two-family lot split application at the time of the application submittal, provided that their use and location do not change from the time that the lot-split application is filed with the community development department, shall be considered to be conforming to these zoning regulations after the two-family lot split has been filed with the county. Any future expansion of the structure must comply with all applicable zoning regulations.

**SECTION 7.** Section 74-225 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-225. - Condominium residential districts.

(a) **Definitions.** The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Condominium* means a residential building containing two or more dwelling units which shall be separately owned in fee, and shall be owner occupied. The land on which the building is built may be owned by the owner of a condominium within the building or by an association.

*Condominium residential district* means a zoning district designed exclusively for owner occupied single-family, two-family and multiple-family residential use. Every condominium residential district (CRD) shall be designated for one of the following uses:

(1) Low density residential (L).
(2) Moderate density residential (M).
(3) High density residential (H).

(b) **Permitted uses.**

(1) Single-family dwellings.
(2) Two-family dwellings.
(3) Multiple-family dwellings.
(4) Parks and playgrounds.
(5) Accessory and temporary uses, as permitted by article VIII of this chapter.
(6) Signs, as permitted by chapter 53.
(c) Conditional uses.
(1) Swimming clubs, tennis clubs, golf courses and clubhouses accessory thereto. Golf courses shall not include golf driving ranges, pitch and putt or miniature golf.
(2) Group day care home, as defined in section 74-159(b).
(3) Repealed.
(4) Churches, chapels, temples and synagogues.
(5) Schools: primary, intermediate and secondary.
(6) Church offices.
(7) Day care home, as defined in section 74-159(a).
(d) Lot size requirements and bulk regulations.
(1) Low density residential. Condominium residential districts designated for low density residential use (CRD-L) shall comply with the lot size requirements and bulk regulations contained in article III of this chapter, R-1 Single-Family Residential District, section 74-219, except that the density within the development shall not exceed 3½ units per acre.
(2) Moderate density residential. Condominium residential districts designated for moderate density residential use (CRD-M) shall comply with the lot size requirements and bulk regulations contained in article III of this chapter, R-3 Two-Family Residential District, section 74-221.
(3) High density residential. Condominium residential districts designated for high density residential use (CRD-H) shall comply with the lot size requirements and bulk regulations contained in article III of this chapter, R-4 Multiple-Family Residential District, section 74-222. The minimum lot size for any CRD-H development shall be not less than one acre in area.
(e) Review and approval process. All condominium residential districts shall be subject to the same review and approval procedures applicable to planned districts contained in section 74-296(b) and (c).

SECTION 8. Section 74-467 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-467. - Authorization.

A home occupation is permitted as an accessory use by the resident(s) of a dwelling subject to the provisions in this article. The use shall be incidental or subordinate to the residential use of the dwelling. The expressed intent behind regulating home occupations is as follows:
(1) To preserve the residential character of neighborhoods.

(2) To preserve the residential rights of neighbors, while reasonably allowing residents to utilize their dwelling to enhance or fulfill personal economic goals.

(3) To establish reasonable criteria for the operation of home occupations in dwelling units.

(4) To preserve and protect municipal and utility services such as streets, sewers and water systems against increased utilization typical in commercial districts.

(5) To preserve tranquility in neighborhoods and prevent nonresidential activities typically found in commercial districts.

SECTION 9. Section 74-468 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-468. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Type I* home occupation means a business, profession, occupation or trade conducted, wholly or in part, within a single-family or a two-family dwelling unit or within a structure accessory to a single-family or two-family residential building in which an employee or customers routinely visit the residence. Examples include but are not limited to: counseling, tutoring, musical instruction, contractor office, and hair cutting/styling.

*Type II* home occupation means an economic activity involving no routine customers or employees on the premises. A Type II home occupation has no discernable impact on the surrounding neighborhood and can occur in any typical dwelling unit. Examples include but are not limited to: writer, accountant, consultant, and computer programmer.

SECTION 10. Section 74-469 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-469. - Use limitations.

The following minimum use limitations shall apply to all home occupations:

(1) Except as provided in Sec. 74-469(7), no visible or audible evidence of the home occupation shall be apparent from the street, adjacent properties, or the surrounding area.

(2) There shall be no outdoor storage of stock, stock in trade, vehicles registered with or classified by the Kansas Department of Revenue with a gross vehicle weight of over 14,000 pounds, equipment, machinery or materials used in the business of the home occupation. Trailer parking done in conformance with this chapter is allowed.

(3) No more than 20 percent of the floor area of a dwelling unit shall be devoted to a home occupation.

(4) No mechanical or electrical equipment other than customary domestic or household equipment shall be used in the home occupation.
(5) A home occupation shall not create excessive noise, waste run-off, dust, dirt, smoke, odor, vibration, glare, heat or lighting that would be in excess of that created in the customary use of a residential dwelling.

(6) A home occupation shall not create interference with, or fluctuations of, radio or television transmissions in the neighborhood.

(7) Except as provided in Sec. 74-469(8), only signage permitted in Chapter 53 of the Merriam City code is allowed.

(8) Vehicles may have a total of three signs, one sign on the rear and one sign on each side of the vehicle. Each individual sign shall be no larger than six square feet.

(9) No alteration of the residential property, including buildings and structures, shall be permitted that would cause the property to lose its residential character or detract from the residential character of the neighborhood.

(10) No production, burning, dumping or storage of combustible, toxic or hazardous substances shall be allowed.

(11) No waste, refuse, trash, or waste byproduct generated off of the residential premises shall be dumped, disposed of, incinerated, burned or stored on the residential premises. Home occupations are not allowed commercial trash or regular dumpster services.

(12) No boarding houses, bed and breakfasts, or hotels.

(13) Other than vehicles and equipment owned by the resident, any type of repair or assembly of vehicles or equipment with internal combustion or electrical engines or of larger appliances or other work related to vehicles and their parts is prohibited.

(14) Home occupations may not serve as dispatch centers where employees come to the home occupation and are dispatched to other locations.

(15) No funeral or interment services.

(16) No animal services.

(17) No restaurants; catering for off-premise consumption is allowed.

(18) Deliveries or pick-ups of supplies or products shall be by vehicles that normally perform deliveries or pick-ups in residential neighborhoods. Deliveries or pick-ups shall occur between 7:00 a.m. and 9:00 p.m.

SECTION 11. Section 74-470 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-470. – Type I Home occupation permit.

(a) Persons desiring to establish a Type I home occupation shall obtain a permit from the zoning administrator prior to the establishment of the home occupation.

(b) It is the responsibility of the zoning administrator to review, and when appropriate, issue permits for Type I home occupations.
(c) Persons wishing to establish a home occupation shall submit to the zoning administrator an application for a Type I home occupation permit. The persons applying (applicant) for a Type I home occupation shall provide the following information at the time of their application:

(1) Assurance that they will comply with the standards contained in this article.

(2) If the applicant intends to have customers or an employee from outside of the residence, the applicant shall provide a site plan showing the location of the off street parking spaces to be utilized by any employee and/or customers. Except as provided for in Sec 74-471(4), at no time shall the number of customers and employee in the residence exceed the number of parking spaces dedicated for customer and employee parking. Except as provided for in Sec 74-471(4), at no time shall vehicles associated with the home occupation be parked in the public right-of-way.

(3) The applicant shall send, by First Class Mail via the United States Postal Service, the “Notice of Proposed Home Occupation” to all property owners within 200 feet of the proposed location of the home occupation. At a minimum, the notice shall contain the date of mailing and the following information:

“In order to obtain a permit for a Home Occupation, and pursuant to Merriam Zoning Ordinances, I am required to notify all property owners within 200 feet of my home, located at Insert Address, Merriam, Kansas. Please consider this letter as formal notification of my intent to conduct insert description of type of home occupation. Should you have any questions regarding my Home Occupation, please contact me at (XXX) XXX-XXXX.

If you have any comments or concerns regarding my permit request, you may contact the Community Development Office at 913-322-5520 within the next 10 days. Understand that this letter does not grant the recipient and/or property owner any legal rights to challenge the proposed permit. This letter is being provided as a courtesy to inform you of my proposed plans.”

(4) The applicant will provide the list of property owners within 200 feet, a copy of the notice sent, and a signed and notarized affidavit attesting that the notice requirements have been met.

(5) Home occupations shall comply with all local, state and federal regulations pertinent to the business activity pursued, including the requirement of a business license as set forth in Merriam Code. The granting of a permit under this section shall not be construed as an exemption from such regulations.

(6) The permit application shall be signed by the property owner or the property owner’s designee.

(d) Within 15 business days of receipt of a complete permit application, the zoning administrator shall provide a written decision to the applicant regarding their application.

(e) The issuance of a home occupation permit is specific to the resident operating the home occupation, the location of the home occupation, and the type of home occupation. If any one of those conditions are changed or altered, the home occupation permit is void.

SECTION 12. Section 74-471 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:
Sec. 74-471. – Type I Home occupation use limitations.

In addition to the use limitations listed in Sec 74-469, Type I home occupation shall have the following additional use limitations.

(1) One nonresident employee is allowed. A “nonresident employee” includes an employee, business partner, co-owner, or other person affiliated with the Type I home occupation who does not live at the dwelling but routinely visits the site as part of the home occupation.

(2) Only 10 customers may visit the dwelling unit in a day.

(3) No more than three customers can be present at the dwelling unit at the same time.

(4) Group gatherings or meetings, involving more than one customer, may be held at the location of the home occupation no more frequently than one time per month and shall be held inside the home occupation dwelling unit or its accessory structure. Parking for these events can occur in the right-of-way in areas where parking is not prohibited.

(5) Customers and the employee of the home occupation shall visit the residence only between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday.

(6) On-site retail sales of goods shall be an accessory to services provided at the dwelling unit. This does not include retail sales of goods that are shipped or delivered to the customer off-site.

(7) Type I home occupations shall only occur in a single-family or two-family dwelling unit or within a structure accessory to a single-family or two-family residential building.

(8) No more than one Type I home occupation is permitted per dwelling unit. A separate Type II home occupation is allowed.

(9) Except as provided in Section 74-471(4), no customer or employee parking associated with the Type I home occupation shall occur in the right-of-way.

SECTION 13. Section 74-472 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-472. – Type II Home occupation use limitations.

In addition to the use limitations listed in Sec 74-469, Type II home occupation shall have the following additional use limitations.

(1) Type II home occupation shall only be conducted by a person residing in the dwelling.

(2) No routine customers or employees shall visit the location of a Type II home occupation.

(3) Type II home occupation shall not conduct retail sales or wholesale transactions at the location of the home occupation. This does not include retail sales of goods that are shipped or delivered to customers off-site.
SECTION 14. Section 74-473 of the Code of Ordinances of the City of Merriam, Kansas is hereby amended to read as follows:

Sec. 74-473. – Type I home occupation permit renewal.

All home occupation permits shall be subject to renewal every five years.

(1) If there has been a complaint, violation, or a change in the home occupation during the previous five years, then the renewal will be considered by the zoning administrator. No later than 30 days prior to the date for renewal, the zoning administrator shall send the home occupation permit holder written notice, sent via United States Postal Service, informing the permit holder that his home occupation is in need of renewal and the renewal must be considered by the zoning administrator. The written notice shall state the reason (complaint, violation, or change in business) the renewal must be considered by the zoning administrator. The written notice shall also include an application for renewal and a deadline by which the community development department must receive the form. The deadline for receiving the renewal application shall be a minimum of 14 calendar days from the date of the renewal notice. Upon receiving the completed application and associated fees, within 10 business days the zoning administrator shall provide the applicant a written decision regarding the permit renewal.

(2) If there have been no complaints, violations, or a change in the home occupation during the previous five years, the zoning administrator shall review the home occupation. If no complaints, violations, or changes have occurred in the previous five years and, if applicable, the home occupation has a valid city business license, the zoning administrator shall renew the home occupation permit for another five-year period and notify the permit holder in writing of the renewal.

SECTION 15. Section 74-474 is added to the Code of Ordinances of the City of Merriam, Kansas to read as follows:

Sec. 74-474. - Complaints and permit revocation.

(a) Complaints concerning home occupations shall be made to the community development department of the city, or may be initiated by the city. Any person in violation of the provisions of this article shall be notified by the zoning administrator, or a member of his department, of the violation. The violation notice shall be sent via United States Postal Service to the address listed on the home occupation application. The notice shall state that the home occupation permit holder has 10 business days from the date of the notice to cure the violation indicted therein.

(b) In the event such violation is not cured within the time specified in the violation, a written revocation notice shall be sent to the home occupation permit holder. The revocation notice will be sent via registered mail to the address listed on the home occupation application and shall state the date on which such home occupation permit revocation shall be effective. The revocation notice shall further state that any person who is aggrieved by the determination that a violation exists may appeal to the planning commission as described in this article.
SECTION 16. Section 74-475 is added to the Code of Ordinances of the City of Merriam, Kansas to read as follows:

Sec. 74-475. - Appeals.

In the event an application for or request for renewal of a home occupation permit is denied by the zoning administrator, the applicant may appeal to the planning commission by written notice of appeal to the zoning administrator within ten days of the date upon which written denial was issued. If an appeal is filed, the planning commission shall schedule and hold a hearing within 60 days of the filing date of the appeal. The planning commission shall uphold or reverse the determination that a home occupation violation exists, and if such violation is found to exist, revoke the home occupation permit. Any party aggrieved by such appeal finding may further appeal to the district court of the county pursuant to K.S.A. 60-2101(d).

SECTION 17. Existing Sections. Those sections of Chapter 74 of the Code of Ordinances of the City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.

SECTION 18. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance and the Governing Body hereby declares that it would have passed the remaining portions of this Ordinance if it would have known that such part or parts thereof would be declared invalid.


SECTION 20. Take Effect. This ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED by the Governing Body this 9th day of April, 2018.

APPROVED AND SIGNED by the Mayor this 9th day of April, 2018.

(Seal) Ken Sissom, Mayor

ATTEST:

_____________________________
Juliana Pinnick, City Clerk

APPROVED AS TO FORM:
Nicole Proulx Aiken, City Attorney
**AGENDA ITEM INFORMATION FORM**

<table>
<thead>
<tr>
<th>Agenda Item:</th>
<th>Consider approval of an ordinance revising the home occupation business regulations in Chapter 14 – Businesses and Business Regulations of the City of Merriam Code.</th>
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<tr>
<td>Department:</td>
<td>Community Development</td>
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<tr>
<td>Background/Description of Item:</td>
<td>A goal of revising the home occupation standards is to reduce the amount of regulations for those home occupations that do not greatly impact their neighborhood. To address this goal a number of revisions are proposed to the home occupation standards contained in Chapter 74 – Zoning. In addition to those changes, staff and the Planning Commission also recommend exempting Type II home occupations from the requirement to obtain an annual Merriam occupational license. Planning Commission unanimously approved a motion requesting the City Council to consider exempting Type II home occupations from the Merriam occupational licensing requirements. If the proposed revisions to the home occupation standards are approved, the zoning administrator will be responsible for issuing home occupation permits, not the Planning Commission. The ordinance also removes references to the Planning Commission in Chapter 14. Attached are two versions of the same draft ordinance. One version shows the changes with strikethrough and red text. The second version is a “clean” version of the ordinance that incorporates all of the proposed revisions. If Council agrees with the Planning Commission’s recommendation of the amendments to the Home Occupation regulation, staff would suggest waiving the first reading of this ordinance to coincide with the Home Occupation regulation changes. Legal Counsel has reviewed the draft ordinance.</td>
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<td>Related Ordinance or Statute:</td>
<td>Merriam Code</td>
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<td>Council Goal or Objective:</td>
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<td>Recommendation:</td>
<td>Staff recommends waiving the first reading and approving the ordinance revising the home occupation business regulations in Chapter 14 – Businesses and Business Regulations of the Merriam Code.</td>
</tr>
<tr>
<td>Prepared by:</td>
<td>Bryan P. Dyer, AICP</td>
</tr>
<tr>
<td>Community Development Director</td>
<td></td>
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</table>
ORDINANCE NO. __________

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES FOR THE CITY OF MERRIAM, KANSAS CONCERNING BUSINESSES AND BUSINESS REGULATIONS; AMENDING SECTIONS 14-139 AND 14-183; ADDING SECTION 14-36; AND REPEALING THE SECTIONS HEREBY AMENDED.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS THAT:

SECTION 1. Section 14-139 of the Code of Ordinances of the City of Merriam, Kansas, is hereby amended to read as follows:

Sec. 14-139. - Restriction to licensed premises.

(a) All massage therapy, other than in-office massage therapy, provided under the provisions of this chapter, shall be conducted on the premises of a licensed massage therapy establishment.

(b) Exceptions.

(1) Massage therapy may be conducted at a private residence that has been approved by the city planning commission zoning administrator for a Type I home occupation permit for massage therapy subject to the conditions associated with such home occupation permit, as provided in Chapter 74, Article X.

(2) Massage therapy may be conducted at a private residence at the direction of and under the direct supervision of a licensed healing arts practitioner.

SECTION 2. Section 14-183 of the Code of Ordinances of the City of Merriam, Kansas, is hereby amended to read as follows:

Sec. 14-183. - Restrictions and requirements applicable to all licensees; exceptions.

(a) A massage therapist licensee may not conduct massage therapy or in-office massage therapy within the city limits unless the licensee:

(1) Is employed by a validly licensed massage therapy establishment;

(2) Is the licensee of a validly licensed massage therapy establishment; or

(3) Resides in a residence that has an approved conditional use permit from the city planning commission for a Type I home occupation permit for massage therapy as provided in Chapter 74, Article X.

(b) Identification card and license. Any person issued a massage therapist license pursuant to the provisions of this division shall, at all times when offering massage therapy, have in his possession a valid identification card issued by the city bearing the massage therapist's license number, physical description and photograph. Such identification card shall be issued in such form necessary to prevent alteration. The massage therapist shall, at all times when offering massage therapy, have on the premises where such massage therapy is being offered, his
massage therapist license. The massage therapist shall make available for inspection the identification card and license upon request of members of the police department and city code officers. Such inspections shall be made at reasonable times and in a reasonable manner.

(c) Hours. A massage therapist may not conduct massage therapy between the hours of 2:00 a.m. and 6:00 a.m. each day except that a massage therapist may conduct in-office massage therapy on business premises having bona fide evening and night shifts and a massage therapist who is operating pursuant to a home occupation permit shall be subject to hours restrictions set forth in applicable city home occupation regulations.

(d) Separation of sexes. It is unlawful for massage therapists to allow customers of the opposite sex to receive massage therapy in the same room or the same quarters at the same time except for in-office massage therapy and couples massage.

(e) Danger to safety, health. No service shall be given that, in the opinion of the director of the county department of health, is clearly dangerous or harmful to the safety or health of any person, and after such notice, in writing, has been delivered to the massage therapist from such director.

(f) Alcoholic beverages. A massage therapist shall not allow or permit the possession or consumption of alcoholic beverages or cereal malt beverages upon that portion of the premises where the massage therapist is providing massage therapy.

(g) Attire. All massage therapists shall be clean, wear clean outer garments and be modestly attired, with clothing covering their chests at all times. Diaphanous or transparent clothing is prohibited.

(h) Covering of private parts. The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of a massage therapist. Any contact with a patron's genital area is strictly prohibited.

(i) Minors. No licensee hereunder shall perform any massage therapy to a person under the age of 18 unless such person under the age of 18 is accompanied by a parent or legal guardian and the parent or legal guardian has provided written authorization for such massage therapy.

(j) Hotels. Massage therapy is prohibited in the guest rooms of hotels unless the hotel is licensed as a massage therapy establishment and the massage therapy is conducted by a licensed massage therapist employed by the hotel.

SECTION 3. Section 14-36 is hereby added to the Code of Ordinances of the City of Merriam, Kansas:

Sec. 14-36. – Type II home occupation exempt.

A person that has been issued a Type II home occupation permit, as provided in Chapter 74, Article X, is exempt from the provisions Chapter 14, Article II.

SECTION 4. Existing Sections. Those sections of Chapter 14 of the Code of Ordinances of the City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.
SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance and the Governing Body hereby declares that it would have passed the remaining portions of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

SECTION 6. Repeal. Sections 14-139 and 14-183 of the Code of Ordinances of the City of Merriam, Kansas as they existed prior to the above amendment are hereby repealed.

SECTION 7. Take Effect. This ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED BY THE City Council the 9th day of April, 2018.

APPROVED BY THE Mayor the 9th day of April, 2018.

(Seal) Ken Sissom, Mayor

ATTEST:

_______________________________

Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

_______________________________

Nicole Proulx Aiken, City Attorney
ORDINANCE NO. __________

AN ORDINANCE AMENDING CHAPTER 14 OF THE CODE OF ORDINANCES FOR THE CITY OF MERRIAM, KANSAS CONCERNING BUSINESSES AND BUSINESS REGULATIONS; AMENDING SECTIONS 14-139 AND 14-183; ADDING SECTION 14-36; AND REPEALING THE SECTIONS HEREBY AMENDED.

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(b) Exceptions.

(1) Massage therapy may be conducted at a private residence that has been approved by the zoning administrator for a Type I home occupation permit for massage therapy subject to the conditions associated with such home occupation permit, as provided in Chapter 74, Article X.

(2) Massage therapy may be conducted at a private residence at the direction of and under the direct supervision of a licensed healing arts practitioner.

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(2) Is the licensee of a validly licensed massage therapy establishment; or

(3) Resides in a residence that has an approved Type I home occupation permit for massage therapy as provided in Chapter 74, Article X.

(b) Identification card and license. Any person issued a massage therapist license pursuant to the provisions of this division shall, at all times when offering massage therapy, have in his possession a valid identification card issued by the city bearing the massage therapist's license number, physical description and photograph. Such identification card shall be issued in such form necessary to prevent alteration. The massage therapist shall, at all times when offering massage therapy, have on the premises where such massage therapy is being offered, his massage therapist license. The massage therapist shall make available for inspection the
identification card and license upon request of members of the police department and city code officers. Such inspections shall be made at reasonable times and in a reasonable manner.

(c) Hours. A massage therapist may not conduct massage therapy between the hours of 2:00 a.m. and 6:00 a.m. each day except that a massage therapist may conduct in-office massage therapy on business premises having bona fide evening and night shifts and a massage therapist who is operating pursuant to a home occupation permit shall be subject to hours restrictions set forth in applicable city home occupation regulations.

(d) Separation of sexes. It is unlawful for massage therapists to allow customers of the opposite sex to receive massage therapy in the same room or the same quarters at the same time except for in-office massage therapy and couples massage.

(e) Danger to safety, health. No service shall be given that, in the opinion of the director of the county department of health, is clearly dangerous or harmful to the safety or health of any person, and after such notice, in writing, has been delivered to the massage therapist from such director.

(f) Alcoholic beverages. A massage therapist shall not allow or permit the possession or consumption of alcoholic beverages or cereal malt beverages upon that portion of the premises where the massage therapist is providing massage therapy.

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Sec. 14-36. – Type II home occupation exempt.

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SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the
remaining portions of this Ordinance and the Governing Body hereby declares that it would have passed the remaining portions of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

**SECTION 6. Repeal.** Sections 14-139 and 14-183 of the Code of Ordinances of the City of Merriam, Kansas as they existed prior to the above amendment are hereby repealed.

**SECTION 7. Take Effect.** This ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED BY THE City Council the 9th day of April, 2018.

APPROVED BY THE Mayor the 9th day of April, 2018.

(Seal)       Ken Sissom, Mayor

ATTEST:

_______________________________
Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

_______________________________
Nicole Proulx Aiken, City Attorney
MEMO:

To: City Council

From: Juli Pinnick, City Clerk

Date: 4/4/2018

Re: Amend 2018 Fee Schedule

The two proposed amendments to the 2018 Fee Schedule are related to the changes for home occupations.

Page 2 adds the clarification that the $50 Home Occupational License fee only applies to Type I Home Occupations, previously all home occupations were subject to the $50 annual Occupational License fee. Type II Home occupations will no longer be required to pay the annual Occupational License fee.

Page 5 adds the Application Fee for a Type I Home Occupation at $35 and removes the reference to Conditional Use for a Home office (Type 2).

Previously the Application Fee for a Conditional Use for a Home Occupation fell into the general Conditional Use category. If the application went before the Planning Commission, applicants were required to pay the $125 Conditional Use fee. The $35 is a reduction of the Application Fee.

The fee for a Conditional Use for Home Office is not valid as a Home Office (Type II) permit is not required to pay an Application Fee.
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<tr>
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<td>1</td>
<td>Auctioneers Code sec. 14-205</td>
<td>190.00/year or 70.00/day</td>
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<td>7</td>
<td>Landlords Code Sec. 14-206</td>
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<td>Rental Single Family Homes and each Duplex dwelling unit</td>
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<td></td>
<td>Apartments (based upon sq. ft. of living space)</td>
<td>.01/sq. ft.</td>
</tr>
<tr>
<td>8</td>
<td>Manufacturers, research labs, printers, wholesalers, funeral homes, car washes, offices, lumber yards, and businesses not otherwise specified.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Based upon Total Square Footage (Building Footprints)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Less than 5,000 sq. ft.</td>
<td>100.00</td>
</tr>
<tr>
<td></td>
<td>5,000 – 9,999 sq. ft.</td>
<td>200.00</td>
</tr>
<tr>
<td></td>
<td>10,000 – 49,999 sq. ft.</td>
<td>400.00</td>
</tr>
<tr>
<td></td>
<td>50,000 – 99,999 sq. ft.</td>
<td>700.00</td>
</tr>
<tr>
<td></td>
<td>100,000-199,999 sq. ft.</td>
<td>1,100.00</td>
</tr>
<tr>
<td></td>
<td>200,000 and up</td>
<td>1,600.00</td>
</tr>
<tr>
<td>9</td>
<td>Motels, Hotels, Nursing and Convalescent Homes</td>
<td>90.00 + 5.00 per rental room</td>
</tr>
<tr>
<td>10</td>
<td>Retail Stores, restaurants, service stations, and convenience stores. Code Sec. 14-205</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Based upon Total Square Footage (Building Footprints)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Less than 5,000 sq. ft.</td>
<td>100.00</td>
</tr>
<tr>
<td></td>
<td>5,000 – 9,999 sq. ft.</td>
<td>200.00</td>
</tr>
<tr>
<td></td>
<td>10,000-49,999 sq. ft.</td>
<td>400.00</td>
</tr>
<tr>
<td></td>
<td>50,000-99,999 sq. ft.</td>
<td>800.00</td>
</tr>
<tr>
<td></td>
<td>100,000-199,999 sq. ft.</td>
<td>1,600.00</td>
</tr>
<tr>
<td></td>
<td>200,000 and up</td>
<td>3,600.00</td>
</tr>
<tr>
<td>11</td>
<td>Storage Business/Facilities</td>
<td>90.00 + 1.00 per unit</td>
</tr>
<tr>
<td>12</td>
<td>Trailer Courts/RV Parks</td>
<td>90.00 + 5.00 per rental space</td>
</tr>
<tr>
<td>13</td>
<td>Transient Merchants Code Sec. 14-84</td>
<td>10.00 per card for 30 days</td>
</tr>
<tr>
<td></td>
<td>100.00 bond per card</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Massage Therapy Licenses – any person who conducts massage in the City of Merriam must meet the qualifications as described in Chapter 15 of the Merriam Municipal Code and obtain a Massage Therapist License. Code Ch. 14 Article IV</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Massage Therapy Establishment License</td>
<td>90.00</td>
</tr>
<tr>
<td></td>
<td>Massage Therapist License</td>
<td>80.00</td>
</tr>
<tr>
<td></td>
<td>Massage Therapist renewal License</td>
<td>55.00</td>
</tr>
<tr>
<td></td>
<td>Background Check/Finger printing Fee (all new Massage Establishment and Therapist Licenses and for 4th year renewals)</td>
<td>35.00</td>
</tr>
<tr>
<td></td>
<td>Home Occupation Permit for Massage Therapy- Must also obtain Massage Therapist License</td>
<td>50.00</td>
</tr>
<tr>
<td>99</td>
<td>Educational, charitable, literary, fraternal, or religious not-for-profit Code Sec. 14-26</td>
<td>No fee</td>
</tr>
<tr>
<td>Late charge on occupational licenses after January 15th</td>
<td>1/12 of original fee per month</td>
<td></td>
</tr>
<tr>
<td>Permit Type</td>
<td>Fee</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>--------------</td>
<td></td>
</tr>
<tr>
<td>Temporary Sign Permit</td>
<td>$25.00</td>
<td></td>
</tr>
<tr>
<td>Driveway Replacement Code Sec. 2-117</td>
<td>$40.00</td>
<td></td>
</tr>
<tr>
<td>Fence Permit Code Sec. 2-117</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential</td>
<td>$30.00</td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td>$50.00</td>
<td></td>
</tr>
<tr>
<td>Floodplain Development Permit</td>
<td>$100.00</td>
<td></td>
</tr>
</tbody>
</table>

Refunds: The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued. The building official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review has been paid is withdrawn or canceled before any plan reviewing is done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

Penalties: Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee established by the building official that shall be in addition to the required permit fees.

**DETENTION WAIVER ALTERNATIVE MITIGATION REQUIREMENTS Council Policy No. 128**

| Per each Equivalent Dwelling Unit     | 900.00       |

**WEEDS/ NUISANCES Code Sec. 41-138**

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>-Machine mowing</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>-Hand mowing and trim work</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>-Clean Up</td>
<td>Actual Cost</td>
</tr>
<tr>
<td>-Administrative Fee (See Chapter 41, Section 41-140)</td>
<td>First abatement action $50.00</td>
</tr>
<tr>
<td></td>
<td>Second abatement action $75.00</td>
</tr>
<tr>
<td>Third and all subsequent abatement action (per calendar year)</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

**ZONING FEES (For all zoning fees, please refer to Zoning Regulations and Subdivision Regulations)**

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Development Plans</td>
<td>.5 acre or less $75.00</td>
</tr>
<tr>
<td>Preliminary/ Final Plats Subdivision Regulations 2-11</td>
<td>Greater than .5 acre $150.00</td>
</tr>
<tr>
<td>Lot Split code Sec. 2-117</td>
<td>$75.00</td>
</tr>
<tr>
<td>Rezoning (plans not required)</td>
<td>$150.00</td>
</tr>
<tr>
<td>Rezoning (plans required)</td>
<td>$175.00</td>
</tr>
<tr>
<td>Special Use Permit (plans not required)</td>
<td>$150.00</td>
</tr>
<tr>
<td>Special Use Permit (plans required)</td>
<td>$175.00</td>
</tr>
<tr>
<td>Conditional Uses</td>
<td>$125.00</td>
</tr>
<tr>
<td><strong>Home Occupation Type 1 only</strong></td>
<td>$35.00</td>
</tr>
<tr>
<td><strong>Conditional Use-Home Office</strong></td>
<td>$25.00</td>
</tr>
<tr>
<td>Preliminary Plan (P.U.D.)</td>
<td>$175.00</td>
</tr>
<tr>
<td>Final Plan (P.U.D.)</td>
<td>$125.00</td>
</tr>
<tr>
<td>Preliminary Plan (Planned District)</td>
<td>$175.00</td>
</tr>
<tr>
<td>Final Plan (Planned District) Subdivision Regulations 6</td>
<td>.5 acre or less $75.00</td>
</tr>
<tr>
<td>Section 6</td>
<td>Greater than .5 acre $125.00</td>
</tr>
</tbody>
</table>

Rev: 3/21/20183/20/2018
CITY OF MERRIAM PARK AND RECREATION
ADVISORY BOARD MEETING MINUTES
Tuesday, March 27, 2018
6:00PM

Roll Call
The March meeting of the Merriam Parks & Recreation Advisory Board was called to order at 6:02 pm, by Chairperson Billy Crook. Board members in attendance included: Tom Heffron, Suzanne Downey, Kathy Stull, Thelma Fowler, Grant Getzlow, and Katie Leary. Staff members in attendance included: Anna Slocum, Director; Dave Smothers, Assistant Director; Sara Thompson, Recreation Supervisor.

Public Comments-none

Approval of Meeting Minutes
Corrections recommended to the meeting were: add “Partners” to The Clark Enersen name; correction of a misspelled word; and clarification of steering versus design committee. Kathy Stull motioned to approve the February meeting minutes noting the corrections mentioned. Billy Crook seconded the motion; motion was approved unanimously.

Staff Reports
Director’s Report
The Communication department completed the 2017 year-end video. Staff shared the video that can be located on the City’s website under the “YouTube” Channel.

Community Center Update
In the past month staff has been busy working to complete schematic design and select an aquatic design group. Aquatic Design Group out of California was chosen to design the pool. They have joined the team and have participated in two meetings to begin working on pool design options. The team is still working to bring the footprint of the building into the correct square footage. In addition, site layouts and traffic patterns on the site are being discussed. Conversations continue with the library. Recently, additional conversations have taken place with SMMC regarding partnering opportunities. These are in the very early stages but there is the possibility of outreach programming that could occur on site. Staff is also exploring the opportunity of therapy uses. The first Design Committee meeting is slated for April with the first public charrette scheduled for May 9 at City Hall in the Community Training Room.

Turkey Creek Streamway Trail / KCP&L ROW
Last month there were questions about going off trail into the newly cleared section of right-of-way (ROW) that was created by KCP&L. The ROW is 100’ wide which represents the entire area cleared. To honor the ROW agreement, there will be no development of any infrastructure under the power lines. Unfortunately, since that meeting, the number of people choosing to explore the area has drastically increased and the lack of respect to the neighbors has become a nuisance. Neighbors
have created a “fence” with large logs and planted pampas grass to keep people out but there are three other access points not being considered. In an effort to be a good neighbor, staff worked with Public Works and KCP&L to design signs that have been made and installed that warn users they are leaving public property and entering private property. KCP&L has planted native grasses but until they are mature people will not be afraid to explore. In addition, people trampling the area reduces the chance of successful germination. Thankfully, the rain has also helped to deter exploring as the area is rather marshy after the recent storms. Staff will continue to monitor with the help of the neighbors. KCP&L agreed to pay for 50% of the sign expense.

Staff distributed a flyer produced by Bridging the Gap for trail clean up events along the Turkey Creek Streamway Trail.

Assistant Director’s Report

Updates

Heartland Evaluation
Heartland Workshop was reviewed. The pre-heartland workshop was full and many attendees of the opening night reception conveyed the exhibit was a quality show.

Park Project Updates
Staff has identified a vendor to replace the basketball court at Brown Park. This improvement will occur in April and will include a new pole, hoop, and backboard. With the popularity of pickleball, staff was able to add this sport to the court at minimal expense by efficiently designing the width allowed for an extension of length to accommodate. This project will be funded through Special Parks Fund which is funded through a tax on alcohol sold by the glass. This same vendor will be responsible for pouring the concrete pads for the relocation of Vavra Park playground and swings to Waterfall Park. This project will go to City Council in April for approval as it will be funded through Equipment Reserve budget through savings of projects that are not needed with the new facility coming on-line. The pads will be poured this spring but the equipment will not be relocated until after the pool closes in August for the season. The playground will be roughly 20 feet east of the trail.

The small cabinet at 71st & Switzer will be replaced with a locked message cabinet like what is at the other park locations to post program and special event fliers. Three park rule signs have been ordered. They will be installed at Brown Park, a sign missed last year, and two new one at 71st & Switzer and 70th Ter & 71st St.

Turkey Creek Festival run is Saturday, May 19, start and finish at Irene B. French Community Center. Staff is seeking volunteers. LaVera would like her usual corner, Tom and Kathy Stull at finish line.

Upcoming Events
Art from the Heartland is the April show in the Tim Murphy Art Gallery. Reception is Thursday, April 5 featuring approximately 18 regional artists. Menu: Herb onion focaccia bread, southwest veggie dip and Amish sugar cookies.
Recreation Supervisor’s Report

Reports

Turkey Creek Festival Update
To-date there are 15 sponsors committed to the event, 13 food vendors have paid and sent in applications. Marketing efforts are underway with both MPRD and JCPRD summer highlights arriving in mailboxes. Shuttle buses, parking at Lee Jeans and an ATM are reserved. JCPRD reports that Dodge Town has been remodeled, north pond area will have a fountain installed prior to the festival and the bamboo surrounding the Vietnam Memorial is being removed. Artisan Expo has ten registered booths with 50 applications for review.

Merriam Drive Live
This will be a new special event slated for Saturday, October 6 utilizing Merriam Drive, front lawn of IBFCC and Marketplace Pavilion. The program for the day will feature bands on two different stages, youth activities, beer/wine tent, select farmers market and craft vendors plus food trucks.

Upcoming Events

Hanging Basket Workshop
Public Works will provide the instruction and materials for the workshop, the Friday, April 13 deadline has been extended.

Volunteer Appreciation Reception
Reception will be held at Irene B. French Community Center, Thursday, April 19. Entertainment will be provided by “The Matchsellers”. Members are encouraged to RSVP so staff can adequately plan the meal.

New Business
None

Other Business
None

Adjournment
Kathy Stull moved to adjourn the meeting at 6:55 pm and LaVera Howard seconded; motion was approved unanimously.
CITY COUNCIL SUGGESTED MOTIONS FOR YOUR CONSIDERATION

CONSENT AGENDA

1. Move that the council approve Consent Agenda items 1-4.

MAYOR’S REPORT

1. No motion.

2. No motion.

3. No motion.

4. No motion.

PLANNING COMMISSION

1. Move that the council concur with the recommendation of the Planning Commission’s recommendation and approve the amended regulation of Home Occupations in Chapter 74 – Zoning of the Merriam Code and authorize the Mayor to sign the effectuating ordinance.

2. Move that the council waive the customary first reading of an ordinance amending Chapter 14- Business and Business Regulations of the Merriam Code of Ordinances.

3. Move that the council approve an ordinance amending Chapter 14--Business and Business Regulations of the Merriam Code of Ordinances.

4. Move that the council approve revisions to the 2018 Schedule of Fees.

FINANCE AND ADMINISTRATION

1. No motion.

2. No motion.

COMMUNITY DEVELOPMENT/PUBLIC WORKS

1. No motion.

STAFF ITEMS

EXECUTIVE SESSION