

ORDINANCE NO. _____**AN ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF ORDINANCES OF THE CITY OF MERRIAM, KANSAS CONCERNING ZONING; AMENDING SECTIONS 74-3, 74-74, 74-81, 74-219, 74-220, 74-221, 74-225, 74-467, 74-468, 74-469, 74-470, 74-471, 74-472, AND 74-473; ADDING SECTIONS 74-474, 74-475, AND 74-476; AND REPEALING THE SECTIONS HEREBY AMENDED.**

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 bearing walls or partitions, columns, beams, girders or foundations; or the construction of any addition to, or enlargement of, a structure; or the removal of any portion of a structure.

Residential district 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.
 3. Minimum rear yard: 25 feet.
 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:*
 - 1. Single-family dwellings and group homes, R-2: 7,500 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-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.

3. Minimum rear yard: 25 feet.
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.*

- a. Single-family dwellings, R-1.
- 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.
 - 3. Minimum rear yard: 25 feet.
 - 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. 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 involving no 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 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, equipment, machinery or materials used in the business of the home occupation.
- (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.
- (19) 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 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 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. 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 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 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 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 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 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 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 15. Section 74-474 is added to the Code of Ordinances of the City of Merriam, Kansas to read as follows:

Sec. 74-474. – 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 16. Section 74-475 is added to the Code of Ordinances of the City of Merriam, Kansas to read as follows:

Sec. 74-475. - 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 17. Section 74-476 is added to the Code of Ordinances of the City of Merriam, Kansas to read as follows:

Sec. 74-476. - 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 18. **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 19. 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. Repeal. Sections 74-3, 74-74, 74-81, 74-219, 74-220, 74-221, 74-225, 74-467, 74-468, 74-469, 74-470, 74-471, 74-472, and 74-473 of the Code of Ordinances of the City of Merriam, Kansas as they existed prior to the above amendments are hereby repealed.

SECTION 21. 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 26th day of March, 2018.

APPROVED AND SIGNED by the Mayor this 26th day of March, 2018.

(Seal)

Ken Sissom, Mayor

ATTEST:

Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

Nicole Proulx Aiken, City Attorney