

TITLE 20

MISCELLANEOUS

CHAPTER

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2. JOINT CIVIL DEFENSE ORGANIZATION.

CHAPTER 1

FAIR HOUSING ORDINANCE

SECTION

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20-101. Policy. It is the policy of the City of Westmoreland to provide, within constitutional limitations, for fair housing throughout the community. (Ord. #307, Dec. 1996)

20-102. Definitions. (1) "Discriminatory housing practice" means an act that is unlawful under §§ 20-104, 20-105, or 20-106.

(2) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(3) "Family" includes a single individual.

(4) "Person" includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(5) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (Ord. #307, Dec. 1996)

20-103. Unlawful practice. Subject to the provisions of subsection (2) and § 20-107, the prohibitions against discrimination in the sale or rental of housing set forth in § 20-104 shall apply to:

(1) All dwellings except as exempted by subsection (2).

(2) Nothing in § 20-104 shall apply to:

(a) Any single-family house sold or rented by an owner: Provided that such private individual owner does not own more than three (3) such single-family houses at any one time: Provided further that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the one (1) exemption granted by this subsection shall apply only with respect to such sale within any twenty-four (24) month period: Provided further that such bonafide private individual owner does not own any interest in, nor is owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time: Provided further that the sale or rental of any such single-family house shall be excepted from the application of this title only if such house is sold or rented:

(i) Without the use in any manner of the sale or rental facilities or the sales or rental services of any real estate broker, agent, or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person; and

(ii) Without the publication, posting or mailing, after notice of any advertisement or written notice in violation of § 20-104(3) of this chapter, but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(3) For the purpose of subsection (2), persons shall be deemed to be in the business of selling or renting dwellings if:

(a) They have, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(b) They have, within the preceding twelve (12) months, participated as agent, other than in the sale of his or her own personal residence in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(c) They are the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families. (Ord. #307, Dec. 1996)

20-104. Discrimination in the sale or rental of housing. As made applicable by § 20-103 and exempted by §§ 20-103(2) and 20-107, it shall be unlawful:

(1) To refuse to sell or rent after the making of a bonafide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, national origin, familial status or handicap.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, national origin, familial status or handicap.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status or handicap, or any intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, national origin, familial status or handicap that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, national origin, familial status or handicap.

(6) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by that person if such modifications are necessary to afford that person full enjoyment of the premises.

(7) To refuse to make reasonable accommodations in rules, policies, practices, or service, when such accommodations are necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. (Ord. #307, Dec. 1996)

20-105. Discrimination in the financing of housing. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in

whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against them in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, national origin, familial status or handicap of such person or of any person associated with them in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwellings in relation to which such loan or other financial assistance is to be made or given; Provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in § 20-103(2). (Ord. #307, Dec. 1996)

20-106. Discrimination in the provision of brokerage services. It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against them in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, familial status or handicap. (Ord. #307, Dec. 1996)

20-107. Exemption. Nothing in this chapter shall prohibit a religious organization, association, or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, national origin, familial status or handicap. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. #307, Dec. 1996)

20-108. Administration. (1) The authority and responsibility for administrating this Act shall be in the Mayor of the City of Westmoreland.

(2) The mayor may delegate any of these functions, duties, and powers to employees of the community, or the boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this chapter. The mayor shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to other

hearing examiners or to other officers in the community, to boards of officers or to themselves, as shall be appropriate and in accordance with law.

(3) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purpose of this chapter and shall cooperate with the mayor to further such purposes. (Ord. #307, Dec. 1996)

20-109. Education and conciliation. Immediately after the enactment of this chapter, the mayor shall commence such educational and conciliatory activities as will further the purpose of this chapter. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this chapter and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. #307, Dec. 1996)

20-110. Enforcement. (1) Any person who claims to have been injured by a discriminatory housing practice or who believes that they will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the mayor. Complaints shall be in writing and shall contain such information and be in such form as the mayor requires. Upon receipt of such a complaint, the mayor shall furnish a copy of the same to the person or persons who allegedly committed or is about to commit the alleged discriminatory housing practice. Within thirty (30) days after receiving a complaint, or within thirty (30) days after the expiration of any period of reference under subsection (3), the mayor shall investigate the complaint and give notice in writing to the person aggrieved whether they intend to resolve it. If the mayor decides to resolve the complaint, they shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned. Any employee of the City of Westmoreland who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year.

(2) A complaint under subsection (1) shall be filed within one hundred and eighty (180) days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practices are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him and with the leave of the mayor, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(3) If within thirty (30) days after a complaint is filed with the mayor, the mayor has been unable to obtain voluntary compliance with this chapter, the person aggrieved may, within thirty (30) days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The mayor will assist in this filing.

(4) If the mayor has been unable to obtain voluntary compliance within thirty (30) days of the complaint, the person aggrieved may, within thirty (30) days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this chapter, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(5) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(6) Whenever an action filed by an individual shall come to trial, the mayor shall immediately terminate all efforts to obtain voluntary compliance. (Ord. #307, Dec. 1996)

20-111. Investigations; subpoenas; giving of evidence. (1) In conducting an investigation the mayor shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, that the mayor first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The mayor may issue subpoenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The mayor may administer oaths.

(2) Upon written application to the mayor, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the mayor to the same extent and subject to the same limitations as subpoenas issued by the mayor himself or herself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

(3) Witnesses summoned by subpoena of the mayor shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the United States district courts. Fees payable to the witness summoned by a subpoena issued at the request of a respondent shall be paid by them.

(4) Within five (5) days after service of a subpoena upon any person, such person may petition the mayor to revoke or modify the subpoena. The mayor shall grant the petition if they find that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(5) In case of contumacy or refusal to obey a subpoena, the mayor or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(6) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the mayor shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both. Any person who, with intent thereby to mislead the mayor, shall make or cause to be made any false entry or statement or fact in any report, account, record, or other document submitted to the mayor pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both.

(7) The city attorney shall conduct all litigation in which the mayor participates as a party or as amicus pursuant to this chapter. (Ord. #307, Dec. 1996)

20-112. Enforcement by private persons. (1) The rights granted by §§ 20-103, 20-104, 20-105, and 20-106 may be enforced by civil action in state or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days (180) after the alleged discriminatory housing practice occurred: Provided, however, that the court shall continue such civil case brought pursuant to this section or § 20-110(4) from time to time before bringing it to trial or renting dwellings; or

(2) Any persons because they are or have been, or in order to intimidate such person or any other person or any class of persons from:

(a) Participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities; or

(b) Affording another person or class of persons opportunity or protection so to participate; or

(3) Any citizens because they are or have been, or in order to discourage such citizens or any other citizen from lawfully aiding or encouraging

other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year, or both; and if bodily injury results shall be fined not more than ten thousand dollars (\$10,000.00), or imprisoned not more than ten (10) years, or both; and if death results shall be subject to imprisonment for any term of years or for life. (Ord. #307, Dec. 1996)

CHAPTER 2

JOINT CIVIL DEFENSE ORGANIZATION

SECTION

20-201. Creation.

20-202. Authority and responsibilities.

20-203. Office of director, his authority and responsibility.

20-204. Civil defense corps.

20-205. No municipal or private liability.

20-206. Expenses of civil defense.

20-201. Creation. There is hereby created the City of Westmoreland, Sumner County Civil Defense Organization, which shall be a joint operation by the City of Westmoreland and the County of Sumner, for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Westmoreland and Sumner County shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the City of Westmoreland, Sumner County Civil Defense Organization. (1978 Code, § 1-1101)

20-202. Authority and responsibilities. (1) Authority. In accordance with federal and state enactments of law, the City of Westmoreland, Sumner County Civil Defense Organization is hereby authorized to assist the regular government of the county, and governments of all political subdivisions therein, as may be necessary due to enemy caused emergencies or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, droughts, or peace-time manmade disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Sumner County. The City of Westmoreland, Sumner County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The City of Westmoreland, Sumner County Civil Defense Organization is hereby designated the official agency to assist regular forces in times of said emergencies.

(2) Responsibilities. The City of Westmoreland, Sumner County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Sumner County, to establish and coordinate emergency plans, forces, means and resources, and is hereby designated the official agency to establish such emergency plans. (1978 Code, § 1-1102)

20-203. Office of director, his authority and responsibility.

(1) Primary authority. The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge, or either, or by higher authority as appropriate.

The director shall have overall responsibility for the preparation of all plans and for recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense office.

The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter, subject to the approval of the chief executive officers of the city and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the City of Westmoreland, Sumner County Civil Defense Organization, for the preparation of all plans and administrative regulations and for recruitment and training of personnel. (1978 Code, § 1-1103)

20-204. Civil defense corps. The City of Westmoreland, Sumner County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1978 Code, § 1-1104)

20-205. No municipal or private liability. The adoption and implementation of the provisions in this chapter is an exercise by the city and county of their governmental functions for the protection of the public peace, health, and safety and neither the City of Westmoreland nor Sumner County, the agents and representatives of said city and county, nor any individual, receiver, firm, partnership, corporation, association, or trustee nor any of the agents thereof, in good faith carrying out, complying with, or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to any person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission or for loss of, or damage to, the property of such person. (1978 Code, § 1-1105)

20-206. Expenses of civil defense. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this chapter without prior approval by the governing bodies of the city and/or county or both; nor shall any person have any right to bind the city or county by contract, agreement, or otherwise without prior and specific approval by the governing bodies of the city and/or county, or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. The director shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Westmoreland or Sumner County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the city and county. (1978 Code, § 1-1106)