

**THE
WESTMORELAND
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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CITY OF WESTMORELAND, TENNESSEE

MAYOR

Ricky W. Woodard

VICE-MAYOR

Cynthia Templeton

ALDERMEN

Michael Carter

Brad Penick

Frank Ruckman

Brian Smalling

RECORDER

Fredia Carter

PREFACE

The Westmoreland Municipal Code contains the codification and revision of the ordinances of the City of Westmoreland, Tennessee. By referring to the historical citation appearing at the end of each section, the user can determine the origin of each particular section. The absence of a historical citation means that the section was added by the codifier. The word "modified" in the historical citation indicates significant modification of the original ordinance.

The code is arranged into titles, chapters, and sections. Related matter is kept together, so far as possible, within the same title. Each section number is complete within itself, containing the title number, the chapter number, and the section of the chapter of which it is a part. Specifically, the first digit, followed by a hyphen, identifies the title number. The second digit identifies the chapter number, and the last two digits identify the section number. For example, title 2, chapter 1, section 6, is designated as section 2-106.

By utilizing the table of contents and the analysis preceding each title and chapter of the code, together with the cross references and explanations included as footnotes, the user should locate all the provisions in the code relating to any question that might arise. However, the user should note that most of the administrative ordinances (e.g. Annual Budget, Zoning Map Amendments, Tax Assessments, etc...) do not appear in the code. Likewise, ordinances that have been passed since the last update of the code do not appear here. Therefore, the user should refer to the city's ordinance book or the city recorder for a comprehensive and up to date review of the city's ordinances.

Following this preface is an outline of the ordinance adoption procedures, if any, prescribed by the city's charter.

The code has been arranged and prepared in loose-leaf form to facilitate keeping it up to date. MTAS will provide updating service under the following conditions:

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of the codes team, Emily Keyser, Linda Winstead, and Nancy Gibson, is gratefully acknowledged.

Stephanie Allen
Codification Consultant

**ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE
CITY CHARTER**

ARTICLE IV

ORDINANCES AND RESOLUTIONS

SECTION

1. Required wording.
2. Readings required and effective dates for ordinances and resolutions.
3. Numbering of ordinances.
4. Construction of ordinances; service of process.

SECTION 1. Required wording. Be it further enacted, That all Ordinances shall begin, "Be it Ordained by the City of Westmoreland."

SECTION 2. Readings required and effective dates for ordinances and resolutions. Be it further enacted, That every Ordinance shall be passed on two readings on two separate days in open sessions of the City Council before it shall become effective, and all Ordinances shall take effect from and after their final passage, unless otherwise provided therein; provided, that Resolutions may be passed and become effective on only one reading. All Ordinances and Resolutions shall be signed by the Mayor and Recorder.

SECTION 3. Numbering of ordinances. Be it further enacted, That every Ordinance, when filed with the Recorder, shall immediately be numbered and copied in an Ordinance book and preserved in his office.

SECTION 4. Construction of ordinances; service of process. Ordinances of the city imposing fines, penalties and forfeitures shall be construed remedially and all process issued by the mayor, recorder or other officers of the city may be directed to the chief of police of said city, who shall execute and return same as any other process in the manner prescribed by general law and may be amended from time to time to promote the attainment of justice. [As added by Priv. Acts 2008, ch. 75, § 12]

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. CITY COUNCIL.
2. MAYOR.
3. RECORDER.

CHAPTER 1

CITY COUNCIL²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Special meetings.
- 1-103. Mayor to preside.
- 1-104. Absent aldermen.
- 1-105. Order of business.
- 1-106. General rules of order.

1-101. Time and place of regular meetings. The city council shall hold regular monthly meetings at 7:00 P.M. on the third Thursday of each month at the city hall. (1978 Code, § 1-101, modified)

1-102. Special meetings. Special meetings of the council may be held at any time when, in the opinion of the mayor or any two (2) aldermen, the welfare of the city demands it. Special meetings shall be announced at a regular

¹Charter references

See the charter index, the charter itself, and footnote references to the charter in the front of this code.

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.
 Fire department: title 7.
 Utilities: titles 18 and 19.
 Wastewater treatment: title 18.
 Zoning: title 14.

²Charter references

Elections: art. III, § 6.
 Quorum: art. III, § 14.
 Salaries: art. III, § 8.

meeting or special meeting or upon at least twelve (12) hours written notice to each alderman and the mayor. Each call for a special meeting shall set forth the character of the business to be discussed at such meeting and no other business shall be considered at such time. (1978 Code, § 1-102)

1-103. Mayor to preside. The mayor, and in his absence the mayor pro tempore, shall preside at all meetings of the council. (1978 Code, § 1-103)

1-104. Absent aldermen. Absent aldermen may be compelled to attend any meeting of the council by subpoena, issued by the recorder under the direction of the mayor or two (2) aldermen, and served by the marshal. On refusal of such member to answer such summons by his immediate attendance, he shall be fined in the sum of ten dollars (\$10.00) by the recorder for each offense. (1978 Code, § 1-104)

1-105. Order of business. At each meeting of the city council, the following regular order of business shall be observed unless dispensed with by a majority vote of the members present:

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder, and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the city council, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1978 Code, § 1-105)

1-106. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the city council at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. (1978 Code, § 1-106)

CHAPTER 2

MAYOR¹

SECTION

- 1-201. Generally supervises municipality's affairs.
- 1-202. Executes municipality's contracts.
- 1-203. Appoints committees.
- 1-204. To sign journal of proceedings, ordinances, etc.

1-201. Generally supervises municipality's affairs. The mayor shall have general supervision of all city affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1978 Code, § 1-201)

1-202. Executes municipality's contracts. The mayor shall execute all contracts as authorized by the city council. (1978 Code, § 1-202)

1-203. Appoints committees. The mayor, with the approval of the council, may appoint such committees as may be needed from time to time. (1978 Code, § 1-203)

1-204. To sign journal of proceedings, ordinances, etc. The mayor shall sign the journal of proceedings of each council meeting at the following council meeting. He shall sign all ordinances and resolutions immediately after passage, and his signature shall be attested by the recorder. (1978 Code § 1-204)

¹Charter references

Duties: art. V, § 1.

Election: art. III, § 3.

Presides at meetings: art. III, § 11.

Salary: art. III, § 8.

CHAPTER 3

RECORDER¹

SECTION

- 1-301. To be bonded.
- 1-302. To keep minutes, etc.
- 1-303. To endorse dates of passage.
- 1-304. To perform general administrative duties, etc.
- 1-305. Records to be public.

1-301. To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the city council. (1978 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the city council and shall preserve the original copy of all ordinances in a separate ordinance book. (1978 Code, § 1-302)

1-303. To endorse dates of passage. The recorder shall endorse on each ordinance the dates of its passage on first and second reading. (1978 Code, § 1-303)

1-304. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the city council and for the city which are not assigned by the charter, this code, or the city council to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1978 Code, § 1-304)

1-305. Records to be public. All records of the city are hereby declared to be public records, open to the inspection of any citizen of the city, but no official shall permit any book, paper or other document or record to be taken from his office unless on a summons, properly served, issued by some court of competent jurisdiction or some committee appointed by the mayor, or on an order from the council or the mayor. All records made by employees or officials of the city pertaining to affairs of the city shall be and remain at all times the property of the city. (1978 Code, § 1-305)

¹Charter references

Duties: art. VI, § 2, § 4.

Keeps docket: art. VI, § 10.

Salary: art. VI, § 1.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3
MUNICIPAL COURT¹

CHAPTER

1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. WARRANTS, SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

CHAPTER 1

CITY JUDGE

SECTION

- 3-101. Office established.
3-102. Duties.
3-103. Session of city court.

3-101. Office established. The office of city judge is hereby established and said city judge is charged with all the duties, responsibilities, and obligations set forth in article 1, sections 501 through 511. (Ord. #156, March 1981)

3-102. Duties. The city judge shall further be charged with those duties formerly given to the city recorder in article VI, sections 5 through 9. Moreover, the city recorder is hereby relieved of the aforesaid duties, responsibilities and obligations. (Ord. #156, March 1981)

3-103. Session of city court. The city judge shall hold session of the city court no less than once each month as required by the caseload. (Ord. #156, March 1981)

¹Charter reference
City judge: art. VI, § 10a.

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.

3-202. Imposition of fines, penalties, and costs.

3-203. Disposition and report of fines, penalties, and costs.

3-204. Contempt of court.

3-205. Trial and disposition of cases.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant. (1978 Code, § 1-502)

3-202. Imposition of fines, penalties, and costs. All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

Twenty-five dollars (\$25.00) shall be taxed against each defendant found guilty of violating a city ordinance and further in the event the defendant has to be transported to the Sumner County, Tennessee jail there shall be an additional sum of ten dollars (\$10.00) assessed against said defendant. (1978 Code, § 1-507, as amended by Ord. #140, July 1979)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the municipality to go in the general fund. At the end of each month he shall submit to the city council a report accounting for the collection or non-collection of all fines, penalties and costs imposed by his court during the current month and to date for the current fiscal year. (1978 Code, § 1-510)

3-204. Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.

3-205. Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not

in a proper condition or is not able to appear before the court. (1978 Code, § 1-505)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1978 Code, § 1-503)

3-302. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1978 Code, § 1-504)

¹State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1978 Code, § 1-506)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1978 Code, § 1-508)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place.

An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1978 Code, § 1-509)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY.
2. VACATION AND SICK LEAVE.
3. PERSONNEL REGULATIONS.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1**SOCIAL SECURITY****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. Exclusions.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Westmoreland, Tennessee, to extend at the earliest date, to employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-701)

4-102. Necessary agreements to be executed. The Mayor of the City of Westmoreland is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding § 4-101 hereof. (1978 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in § 4-101 of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and

shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1978 Code, § 1-704)

4-105. Records and reports to be made. The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1978 Code, § 1-705)

4-106. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other chapter or title creating any retirement system for any employee or official of the city.

There is hereby excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official, compensation for which is on a fee basis, or any position, or any employee or official not authorized to be covered by applicable state or federal laws or regulations.

Notwithstanding any provisions heretofore contained in the Social Security Agreement between said parties, it is now the intent and purpose of said City Council, City of Westmoreland, Tennessee to amend the Social Security Agreement by and between the City of Westmoreland and the State Old Age and Survivors Insurance Agency, to exclude from its coverage group under the Federal System of Old Age Survivors, Disability, Health Insurance, the service of election workers and election officials if the remuneration paid for such services in a calendar year is less than one thousand dollars (\$1,000.00) on or after January 1, 1995, ending on or before December 31, 1999 and, the adjusted amount thereafter determined under Section 218(c)(8)(B) of the Social Security Act, for any calendar year commencing on or after January 2000. (1978 Code, § 1-706, as amended by Ord. #282, Nov. 1994)

CHAPTER 2

VACATION AND SICK LEAVE

SECTION

- 4-201. Applicability of chapter.
- 4-202. Holidays.
- 4-203. Vacation.
- 4-204. Funeral leave.
- 4-205. Sick leave.
- 4-206. Emergency sick leave for supervisory personnel.
- 4-207. Leave records.

4-201. Applicability of chapter. The employees of the City of Westmoreland shall have such holidays, vacation, sick leave, and days off for funerals as provided in this chapter. (1978 Code, § 1-801)

4-202. Holidays. The employees of the City of Westmoreland shall have eleven (11) holidays off with pay as follows: New Year's Day, Martin Luther King Day, Good Friday, Memorial Day, 4th of July, Labor Day, Veterans Day, Thanksgiving Day, day after Thanksgiving, Christmas Eve and Christmas Day.

When an employee must work on a holiday, his supervisor shall schedule a day off for the employee at the earliest possible date after the holiday. (1978 Code, § 1-802, modified)

4-203. Vacation. Each employee shall be allowed one week of five (5) working days vacation each year after the first year of service. Vacation leave shall not be cumulative, but shall be in addition to holiday and other leave. (1978 Code, § 1-803)

4-204. Funeral leave. Each employee shall be allowed a maximum of two (2) days off with pay to attend the funeral of his mother, father, brother, sister, son, daughter, husband or wife. For any other member of the family, the employee may have the time off but without pay. (1978 Code, § 1-804)

4-205. Sick leave. Employees shall have six (6) days per year, after one (1) year of service. There will be no personal time off. If an employee is out of work for more than two (2) consecutive days that employee must have a doctor's statement in order to be paid for that time off. If just off for one (1) day, no statement is required. (Ord. #211, Dec. 1987, modified)

4-206. Emergency sick leave for supervisory personnel. Supervisory personnel will be allowed a maximum of thirty (30) paid sick days off per year provided they are under the care or are acting on advice of a doctor.

After thirty (30) days, if the employee is unable to work, he must be placed on a leave of absence. (1978 Code, § 1-806)

4-207. Leave records. Each supervisor is responsible for reporting to the recorder all vacations, sick leave, and funeral leave taken by himself and employees under him so that the recorder can keep a record currently up to date at all times showing credits earned and leave taken under this chapter. (1978 Code, § 1-807)

CHAPTER 3

PERSONNEL REGULATIONS

SECTION

- 4-301. Business dealings.
- 4-302. Acceptance of gratuities.
- 4-303. Outside employment.
- 4-304. Political activity.
- 4-305. Use of municipal time, facilities, etc.
- 4-306. Use of position.
- 4-307. Strikes and unions.

4-301. Business dealings. Except for the receipt of such compensation as may be lawfully provided for the performance of his municipal duties, it shall be unlawful for any municipal officer or employee to be privately interested in, or to profit, directly or indirectly, from business dealings with the municipality. (1978 Code, § 1-901)

4-302. Acceptance of gratuities. No municipal officer or employee shall accept any money or other consideration or favor from anyone other than the municipality for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to city business. (1978 Code, § 1-902)

4-303. Outside employment. No full-time officer or employee of the municipality shall accept any outside employment without written authorization from the mayor. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. (1978 Code, § 1-903)

4-304. Political activity. Employees shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office (except for membership on the municipal governing body), the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. Provided, however, no employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election. (1978 Code, § 1-904, modified)

4-305. Use of municipal time, facilities, etc. No municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the city council has authorized the use of such time, facilities, equipment, or supplies, and the municipality is paid at such rates as are normally charged by private sources for comparable services. (1978 Code, § 1-905)

4-306. Use of position. No municipal officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the municipality, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others. (1978 Code, § 1-906)

4-307. Strikes and unions. No municipal officer or employee shall participate in any strike against the municipality, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees. (1978 Code, § 1-907)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

- 4-401. Creation.
- 4-402. Duties of the city.
- 4-403. Definitions.
- 4-404. Coverage.
- 4-405. Employer's rights and duties.
- 4-406. Employee's rights and duties.
- 4-407. Standards authorized.
- 4-408. Variances from standards authorized.
- 4-409. Inspection.
- 4-410. Citation.
- 4-411. Penalties.
- 4-412. Record keeping and reporting.
- 4-413. Administration.
- 4-414. Compliance with other regulations and laws.

4-401. Creation. There is hereby created "The Occupational Safety and Health Program for the Employees of the City of Westmoreland." (1978 Code, § 1-1001)

4-402. Duties of the city. The City of Westmoreland, in electing to establish and maintain an effective occupational safety and health program for its employees, shall:

- (1) Provide a safe and healthful place and condition of employment.
- (2) Acquire, maintain, and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees as soon as the city can investigate the availability and the most economical cost of the aforesaid.
- (3) Make, keep, preserve, and make available to the state commissioner of labor, his designated representative or persons within the agency to whom such responsibilities have been delegated adequate records of all occupational accidents and personal injuries for proper evaluation and necessary corrective action as required. However, these provisions shall not take effect until and after the city has received, reviewed, and evaluated the record keeping forms, procedures and guidelines the state has promised to provide, and thereafter these provisions shall not take effect until after the city has had a reasonable period of time to set up and provide for the orderly implementation and use of such records.
- (4) Consult with the state commissioner of labor with regard to the adequacy of the form and content of records.

(5) Consult with the state commissioner of labor or the state commissioner of public health, as appropriate, regarding safety and health problems of the agency which are considered to be unusual or peculiar to its activities or responsibilities such that they cannot be achieved under a standard.

(6) Make an annual report to the state commissioner of labor to show accomplishments and progress of the total occupational safety and health program as soon as reasonably possible after the city has implemented the provisions of subsection (3) hereinabove.

(7) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(8) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and training of all employees as soon as reasonably possible after this chapter has been fully implemented. (1978 Code, § 1-1002)

4-403. Definitions. For the purpose of this program:

(1) "Appointing authority" means any city official or group of officials having legally designated powers of appointment, employment, or removal for a specific department or commission.

(2) "Commissioner of labor" means the chief executive officer of the Tennessee Department of Labor. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of labor.

(3) "Commissioner of public health" means the chief executive officer of the Tennessee Department of Public Health. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the commissioner of public health.

(4) "Director of personnel" means the chief executive officer designated by the City of Westmoreland, to perform duties or to exercise powers assigned so as to plan, develop, and administer the City of Westmoreland's Occupational Safety and Health Program.

(5) "Employee" means any person performing services for the City of Westmoreland and listed on city payrolls either as part time, or permanent, full-time employees; provided, however, excluding independent contractors, their agents, servants, and employees.

(6) "Employer" means the City of Westmoreland, and shall include each administrative department, commission, board, division or other agency of the city.

(7) "Establishment" or workplace means a single physical location where business is conducted or where service or industrial operations are performed.

(8) "Issue" means a category of like industrial, occupational or hazard groupings which affects the safety and health of employment or place of employment and is suggested by the groupings in Code of Federal Regulations, title 29, chapter XVII, part 1910.

(9) "Person" means one (1) or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons.

(10) "Standard" means an occupational safety and health standard promulgated by the Tennessee State Commissioner of Labor or the state commissioner of public health and agreed upon by this city as a standard which requires conditions or the adoption or the use of one or more practices, means, methods, operations or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment. (1978 Code, § 1-1003)

4-404. Coverage. The provisions of this program shall apply to employees of each administrative department, commission, board, division or other agency of the City of Westmoreland. (1978 Code, § 1-1004)

4-405. Employer's rights and duties. Rights and duties of the employer shall include, but are not limited to the following provisions:

(1) Employer shall furnish to each of his employees conditions of employment and a place of employment free from known and recognized hazards that are causing or are likely to cause death or serious injury or harm to employees. However, employer shall have a reasonable period of time to correct any such hazards.

(2) Employer shall comply with occupational safety and health standards or regulations promulgated pursuant to the State Occupational Safety and Health Act of 1972 that are agreed upon by this city.

(3) Employer shall assist the state commissioner of labor and state commissioner of public health in the performance of their inspection duties by supplying necessary information upon reasonable notice from the said commissioners.

(4) Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearings on proposed standards, or by requesting the development of standards on a given issue.

(5) Employer is entitled to such an order granting a variance from an occupational safety and health standard.

(6) Employer is entitled to protection of his trade secrets and other legally privileged communications.

(7) Employer shall inspect all installations, departments, bureaus, and offices to insure the provisions of this program are complied with and carried out as soon as reasonably possible after this chapter has been fully implemented

and all department heads and supervisors are fully informed and trained to carry out and implement the provisions of this chapter.

(8) Employer shall notify and inform any employee, who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard, of corrective action being taken as soon as reasonably possible after such an actual determination has been made by the city. (1978 Code, § 1-1005)

4-406. Employee's rights and duties. The rights and duties of employees shall include, but are not limited to the following provisions:

(1) Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

(2) Each employee shall be notified by the placing upon bulletin boards, or other places of common passage, of any application for a temporary order granting a variance from any standard or regulation.

(3) Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

(4) Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the director of personnel.

(5) Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and the corrective action being taken as soon as reasonably possible after this chapter has been fully implemented.

(6) Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection.

(7) No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under or relating to this program.

(8) Any employee who believes that he or she has been discriminated against or discharged in violation of any of these sections may, within thirty (30) days after such violation occurs, file a complaint with the Director of Personnel of the City of Westmoreland.

(9) Nothing in this section or any other provisions of this program shall be deemed to authorize or require medical examinations, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. (1978 Code, § 1-1006)

4-407. Standards authorized. The standards that shall be applicable shall be those subsequently adopted by the City of Westmoreland which shall

be those standards agreed upon with the appropriate state officials. (1978 Code, § 1-1007)

4-408. Variances from standards authorized. The City of Westmoreland, may, upon written application to the state commissioner of labor or the state commissioner of public health, request an order granting a temporary variance from such agreed standards. Prior to requesting such temporary variance, the employer shall notify or serve notice to employees or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the city, shall be deemed sufficient notice to employees. (1978 Code, § 1-1008)

4-409. Inspection. (1) In order to carry out the purpose of this program, the director of personnel, or his authorized representatives, is authorized:

(a) To enter at any reasonable time any establishment, construction site, plant, or other area, work place, or environment where work is performed by an employee of the City of Westmoreland; and,

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such supervisor, operator, agent or employee.

(2) The director of personnel may issue subpoenas to require the attendance and testimony of witnesses and the production of evidence under oath.

(3) An administrative representative of the city and a representative authorized by the employees may be given an opportunity to consult with or to accompany the compliance inspector (director of personnel) during the physical inspection of any workplace for the purpose of aiding such inspection.

(4) The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.

(5) The inspection shall be such as to preclude unreasonable disruptions of the operations of the workplace or establishment.

(6) Interviews of employees during the course of the inspection, when accompanied by an employee representative, may be made when such interviews are essential to the investigation techniques.

(7) Inspections shall be accomplished without advance notice, but the director of personnel may authorize the giving to any supervisor or employee advance notice of an inspection. (1978 Code, § 1-1009)

4-410. Citation. (1) If, upon an inspection or investigation, the director of personnel, or his designated deputy or authorized representatives, finds that any work place is not in compliance with any standard, rule, regulation or order,

he shall, with reasonable promptness, issue to the administrative officer responsible for the work place a written citation that states the nature, and location of the violation; the standard, rule, regulation or order violated; the abatement and correction requirements; and a period of time during which the work place must accomplish such abatement and correction. A copy of each citation shall immediately be posted at or near each location referred to in the citation and remain posted until the alleged violation has been corrected or vacated.

(2) At any time within ten (10) days after receipt of such citation, anyone affected may advise the director of personnel of objections to the terms and conditions of the citation. Upon receipt of such objections and after a hearing, the director of personnel shall thereafter issue an order affirming, modifying, or vacating the citation and such order shall be final. (1978 Code, § 1-1010)

4-411. Penalties. (1) The City of Westmoreland shall not issue any monetary penalties against any administrative department, commission, board, division or other agency of the City of Westmoreland for failure to comply with the safety and health standards.

(2) Any employee who willfully and repeatedly violates or causes to be violated a safety standard, rule, regulation, or order shall be subject to disciplinary action by the appointing authority. The appointing authority has the power to administer discipline and it shall be his duty to take action in one (1) of the following ways:

- (a) Oral reprimand;
- (b) Written reprimand;
- (c) Suspension;
- (d) Termination.

The employee being disciplined shall have the right of appeal to the director of personnel. (1978 Code, § 1-1011)

4-412. Record keeping and reporting. (1) The City of Westmoreland shall establish and maintain a system for collecting, maintaining and reporting safety and health data as soon as reasonably possible after implementing the provisions of § 4-402(3).

(2) Such occupational safety and health records shall be maintained for a period of five (5) years following the end of the year to which they relate.

(3) After this chapter has been fully implemented, the City of Westmoreland shall report within forty-eight (48) hours to the commissioner of labor any accident which is fatal to one or more employees or which results twenty-four (24) hours or more hospitalization of five (5) or more employees.

(4) The City of Westmoreland shall make an annual report, after this chapter has been fully implemented, to the commissioner of labor showing the

accomplishments and progress of the city's occupational safety and health program. (1978 Code, § 1-1012)

4-413. Administration. For the purposes of this chapter, the mayor is hereby designated as the director of personnel and is likewise designated as the chief executive officer to perform duties or to exercise powers assigned so as to plan, develop, and administer the city's occupational safety and health program. The mayor is hereby authorized to designate, appoint, employ such other person as he may wish to serve in the aforesaid capacities and after such appointment, the mayor shall be relieved of any responsibility to perform any of the duties or exercise the powers required or authorized hereunder.

(1) The director of personnel may designate such person as he deems necessary to carry out his powers, duties and responsibilities under the program.

(2) The director of personnel shall recommend the employment of measures to coordinate to the extent possible the activities of all departments to promote efficiency and to minimize inconvenience under the program.

(3) The director of personnel may delegate the power to make inspections provided that the procedures employed are as effective as those employed by the director.

(4) The director of personnel shall develop a plan, pursuant to the city's occupational safety and health program for the approval and adoption of the city council. Any subsequent changes to the plan shall also be submitted to the city council for approval and adoption. (1978 Code, § 1-1013)

4-414. Compliance with other regulations and laws.

(1) Compliance with any other law or statute which regulates safety and health in employment and places of employment shall not excuse the City of Westmoreland, or any city employee, or any other person from compliance with the provisions of this program.

(2) Compliance with any provision of this program or any standard or regulation promulgated pursuant to this program shall not excuse the City of Westmoreland or any city employee, or any other person from compliance with any city law or city ordinance regulating and promoting safety and health unless such law or ordinance is specifically repealed. (1978 Code, § 1-1014)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Travel policy.
- 4-504. Travel reimbursement rate schedules.
- 4-505. Administrative procedures.

4-501. Purpose. The purpose of this chapter and referenced regulations is to bring, the city into compliance with Public Acts 1993, Chapter 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local government body, and any official or employee of the municipality whose salary is set by charter or general law.

To provide consistent travel regulations and reimbursement, this ordinance is expanded to cover regular city employees. It's the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (Ord. #274, June 1994)

4-502. Enforcement. The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #274, June 1994)

4-503. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the city. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) Directly related to the conduct of the city business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #274, June 1994)

4-504. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #274, June 1994)

4-505. Administrative procedures. The city adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #274, June 1994)

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 5-101. Official depository for city funds.
5-102. Purchasing limits.

5-101. Official depository for city funds. The city council by majority vote shall choose the official depository for all funds for the City of Westmoreland, Tennessee. (1978 Code, § 6-101)

5-102. Purchasing limits. The amount is raised from two thousand five hundred dollars (\$2,500.00) to four thousand dollars (\$4,000.00) that the city can purchase before having to take bids. (Ord. #265, Aug. 1993)

¹Charter references

Assessment of taxes: art. VII, § 1.

Tax rates: art. VII, § 1.

Municipal code reference

Wholesale beer tax: § 8-238.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable. Taxes levied by the municipality against real property shall become due and payable annually on the first of October of the year for which levied. (1978 Code, § 6-201)

5-202. When delinquent--penalty and interest. All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes. (1978 Code, § 6-202)

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the City of Westmoreland at the rates and in the manner prescribed by the act. The proceeds of the privilege taxes herein levied shall be apportioned to the various funds according to the subdivision of the property tax by and to the general fund. (1978 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1978 Code, § 6-302)

TITLE 6**LAW ENFORCEMENT****CHAPTER**

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1**POLICE AND ARREST¹****SECTION**

- 6-101. Police officers subject to police chief's orders.
- 6-102. Police officers to preserve law and order, etc.
- 6-103. Police officers to wear uniforms and be armed.
- 6-104. When police officers to make arrests.
- 6-105. Police officers may require assistance.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.

6-101. Police officers subject to police chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1978 Code, § 1-401, modified)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1978 Code, § 1-402, modified)

6-103. Police officers to wear uniforms and be armed. All police officers shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1978 Code, § 1-403, modified)

¹Municipal code reference

Traffic citations, etc.: title 15, chapter 7.

6-104. When police officers to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:

(1) Whenever he is in possession of a warrant for the arrest of the person.

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1978 Code, § 1-404, modified)

6-105. Police officers may require assistance. It shall be unlawful for any person willfully to refuse to aid a police officer in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the police officer and is reasonably necessary. (1978 Code, § 1-405, modified)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested he shall be brought before the city court for immediate trial or allowed to post bond. When the city judge is not immediately available or the alleged offender does not post the required bond, he shall be confined. (1978 Code, § 1-406)

6-107. Police department records. The police department shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses and/or crimes committed within the corporate limits.

(2) All arrests made by police officers.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1978 Code, § 1-407, modified)

CHAPTER 2

WORKHOUSE

SECTION

6-201. County workhouse to be used.

6-202. Inmates to be worked.

6-203. Compensation of inmates.

6-201. County workhouse to be used. The county workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1978 Code, § 1-601)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1978 Code, § 1-602)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars (\$5.00) per day as credit toward payment of the fines assessed against him. (1978 Code, § 1-603)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be the area zoned C-2 on the official zoning map of the city. (1978 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

Burning garbage: § 17-109.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Definition of "municipality."
- 7-203. Gasoline trucks.
- 7-204. Variances.
- 7-205. Available in recorder's office.
- 7-206. Violations and penalty.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,² 2006 edition, as recommended by the International Code Council, is hereby adopted by reference and included as a part of this code. Said international fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

7-202. Definition of "municipality." Whenever the word "municipality" is used in the uniform fire code herein adopted, it shall be held to mean the City of Westmoreland, Tennessee.

7-203. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline.

7-204. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the uniform fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars

¹Municipal code reference

Building, utility and housing codes: title 12.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.

7-205. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

7-206. Violations and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the city council. All apparatus, equipment, and supplies shall be purchased by or through the City of Westmoreland and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firemen as the chief shall appoint. (1978 Code, § 7-301)

7-302. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1978 Code, § 7-302)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1978 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters

¹Municipal code reference

Special privileges with respect to traffic: title 15, chapter 2.

to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1978 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the city council. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the city council.

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1978 Code, § 7-305)

7-306. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1978 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1978 Code, § 7-308)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Equipment to be used only within corporate limits generally.

7-401. Equipment to be used only within corporate limits generally. No equipment of the fire department shall be used for fighting any fire outside the corporate limits unless the fire is on city-owned property or, in the opinion of the chief of the fire department, is in such hazardous proximity to property owned by or located within the city as to endanger the city property or unless, if the property is privately owned and does not meet the above conditions, the owner thereof pays the city a fee of one hundred dollars (\$100.00) for the services of the fire department. The proceeds of this fee shall be used for the fire department. (1978 Code, § 7-307)

TITLE 8**ALCOHOLIC BEVERAGES**¹**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1**INTOXICATING LIQUORS****SECTION**

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws and/or ordinances,² it shall be unlawful for any person acting for himself or for any other person, to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within the City of Westmoreland. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (1978 Code, § 2-101)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

- 8-201. Definitions.
- 8-202. Sales, etc., legalized; conditions generally.
- 8-203. Restrictions on sales by wholesalers.
- 8-204. Limitation on purchases from persons not holding permits.
- 8-205. Selling or exchanging beer between retailers prohibited.
- 8-206. Sale, etc., of beer by retailer limited to place of permit.
- 8-207. Retailer may deliver beer only on premises of permit.
- 8-208. Revocation of permit for unlawful closing.
- 8-209. Accounting for fees collected.
- 8-210. Containers to show manufacturer's name.
- 8-211. From whom retailers may purchase beer.
- 8-212. To whom sales for resale may be made.
- 8-213. Places of sale to be fixed by permits.
- 8-214. Off-premises permittees--sales restricted.
- 8-215. Off-premises permittees--storage, etc., of beer to be in original containers.
- 8-216. Consumption, etc., near off-premises establishment.
- 8-217. Persons to whom beer may not be furnished.
- 8-218. Presence of minors, disorderly persons, etc., on business premises.
- 8-219. Gambling.
- 8-220. Illicit liquors in establishments.
- 8-221. Hours and days for sale.
- 8-222. License required.
- 8-223. Penalties.
- 8-224. Permit required.
- 8-225. Types of permits.
- 8-226. Applications; agreements by applicant; floor plans.
- 8-227. Permit fees.
- 8-228. Investigation of applicants.
- 8-229. Conditions of permits.
- 8-230. Minimum distance from church, school, etc.; conditions under which issuance of a permit prohibited.
- 8-231. When license not to issue--unsuitable types of establishments.

¹State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

- 8-232. Conditions under which issuance of a permit prohibited.
- 8-233. Address of location where sales authorized to be specified on permit.
- 8-234. Non-transferability.
- 8-235. Suspension and revocation.
- 8-236. Wholesale beer tax.
- 8-237. Public dances and dance halls.
- 8-238. Revocation or suspension of beer permits.
- 8-239. Civil penalty in lieu of revocation or suspension.
- 8-240. Loss of clerk's certification for sale to minor.

8-201. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively set opposite them:

(1) "Authorized wholesaler." The term "authorized wholesaler" shall mean a person to whom a permit is required by the ordinance has been issued by the council.

(2) "Beer." The term "beer" shall mean beer, ale or any other beverage having an alcoholic content of not more than five percent (5%) by weight.

(3) "Church." The term "church" shall mean a building or property where a congregation regularly meets at least one day per week for religious worship.

(4) "City." The term "city" shall mean the City of Westmoreland, Tennessee.

(5) "Council." The term "council" shall mean the mayor and council members for the City of Westmoreland, Tennessee.

(6) "Permit." The term "permit" shall mean any permit issued pursuant to this chapter.

(7) "Permittee." The term "permittee" shall mean any person to whom any permit has been issued pursuant to this chapter.

(8) "Premises." The term "premises" means a building, portion of a building, or property that is utilized for a particular business enterprise. (See also definition of "retailer on-premises.")

(9) "Retailer." The term "retailer" means any person licensed by the council to sell beer for consumption and not for resale.

(10) "Retailer off-premises permit." The term "retailer off-premises permit" shall mean a permit issued pursuant to this chapter allowing the sale of beer which is not to be consumed by the purchaser upon the premises of the permittee.

(11) "Retailer on-premises permit." The term "retailer on-premises permit" shall mean a permit issued pursuant to this chapter allowing the sale of beer to be consumed by the purchaser only upon the premises and within the building of such permittee.

A permit issued by the council allowing the sale of beer which is to be consumed by the purchaser means consumption must occur only within the retailer's business building and not outside of that building.

(12) "Sell." The term "sell" shall include taking or receiving an order for, keeping or exposing for sale, delivery for value, keeping for intent to sell and trafficking in beer.

(13) "Wholesale beer permit." The term "wholesale beer permit" shall mean a permit issued pursuant to this chapter allowing the sale of beer by distributors, manufacturers, brewers or any branch of a brewery or manufacturer selling beer solely to retailers.

(14) "Wholesaler." The term "wholesaler" shall mean any person licensed by the council to sell beer to retailers. The term "wholesaler" shall include a distributor, manufacturer, brewer or brewery branch properly licensed by the council and making sales of beer directly to retailers. (Ord. #238, March 1991)

8-202. Sales, etc., legalized; conditions generally. It shall be lawful to transport, store, sell, distribute, possess, receive or manufacture beer, of alcoholic content of not more than five percent (5%) by weight or any other beverage of like alcoholic content of not more than five percent (5%) by weight within the corporate limits of the City of Westmoreland, subject to all the regulations, limitations and restrictions provided by the Tennessee Code Annotated, title 57, chapter 2 or other laws of the State of Tennessee and subject to rules, regulations, limitations and restrictions hereinafter provided or hereafter promulgated. (Ord. #238, March 1991)

8-203. Restrictions on sales by wholesalers. It shall be unlawful for any authorized wholesaler to sell beer to anyone other than a person, firm, corporation, syndicate or association having been licensed by the council as a retailer. (Ord. #238, March 1991)

8-204. Limitation on purchases from persons not holding permits. No person, except an authorized retailer, may sell or store beer for resale within the city unless such beer has been purchased from an authorized wholesaler. (Ord. #238, March 1991)

8-205. Selling or exchanging beer between retailers prohibited. It shall be unlawful for any retailer holding a permit issued by the council to purchase, accept as a gift or loan, or to receive, swap or exchange, beer, for the purpose of resale, from any person who is not the holder of a valid wholesale permit. (Ord. #238, March 1991)

8-206. Sale, etc., of beer by retailer limited to place of permit. Retailers holding permits to sell beer are authorized to sell and store beer at only the location authorized by the council and specifically designated on their respective permits as the place for which the permit is issued. The sale or storage of beer by a retailer at any place other than the location authorized by

the council and specifically named on the face of his permit is prohibited. (Ord. #238, March 1991)

8-207. Retailer may deliver beer only on premises of permit.

Retailers holding permits from the beer board are only authorized to deliver beer on the premises for which the permit is issued. The delivery of beer by a retailer permit holder at any place other than the premises for which his permit is issued is prohibited. No retail permit holder shall enter into any agreement with any person or conspire with any person to cause beer to be delivered off of the premises for his permit is issued or at any location other than the one authorized by his permit for the sale of beer.

It shall be unlawful for any holder of a retail beer permit to knowingly permit the purchase of beer at his place of business by anyone for resale and delivery to another. Holders of retail beer permits issued by the council are prohibited from selling beer to any person when the retail permit holder knows or should have reason to know that such beer is purchased for resale and delivery off of the premises for which his permit is issued. (Ord. #238, March 1991)

8-208. Revocation of permit for unlawful closing. Any person who has been issued a beer permit from the council shall remain in business in order to maintain a valid license. If, for any reason, the licensed premises shall be closed for a period of at least six (6) months, the beer board shall automatically revoke the beer permit. Upon revocation, the location shall be eligible for the issuance of a new beer permit provided all requirements of this chapter and other city ordinances regarding the location of on-premises and off-premises beer permits shall be met. (Ord. #238, March 1991)

8-209. Accounting for fees collected. All fees collected under the provisions of this chapter shall be deposited to the credit of the general fund. The city recorder shall keep a record of all fees paid and all permits issued pursuant to this chapter. (Ord. #238, March 1991)

8-210. Containers to show manufacturer's name. No person shall distribute or sell beverages in bottles or other containers unless such containers bear a label or cap showing the name of the manufacturer and the contents thereof. (Ord. #238, March 1991)

8-211. From whom retailers may purchase beer. No retailer shall purchase beer except from the manufacturers, distributors, licensed to manufacture or distribute such beverage in the State of Tennessee. (Ord. #238, March 1991)

8-212. To whom sales for resale may be made. No manufacturer or distributor shall sell any beverage or beer for resale except to those persons who have been licensed by the council pursuant to this chapter. (Ord. #238, March 1991)

8-213. Places of sale to be fixed by permits. No person shall engage in the sale of beer except in a place for which the council has issued the permit. (Ord. #238, March 1991)

8-214. Off-premises permittees—sales restricted. No person licensed to sell beer for off-premises consumption shall sell beer for on-premises consumption. (Ord. #238, March 1991)

8-215. Off-premises permittees—storage, etc., of beer to be in original containers. No person licensed to sell beer for off-premises consumption shall keep for sale any beer except in the original containers as received from wholesaler and/or distributor. (Ord. #238, March 1991)

8-216. Consumption, etc., near off-premises establishment. No person shall consume or encourage any other person to consume, any beer within two hundred (200) yards of the establishment of any person licensed to sell beer for off-premises consumption. (Ord. #238, March 1991)

8-217. Persons to whom beer may not be furnished. No persons shall sell, furnish or give away beer to any person visibly intoxicated, to any insane person, to any minor, to any habitual drunkard, or to any person of known intemperate habit. (Ord. #238, March 1991)

8-218. Presence of minors, disorderly persons, etc., on business premises. No person shall permit any person under eighteen (18) years of age or any disorderly or disreputable person to be around or to frequent his place of business. (Ord. #238, March 1991)

8-219. Gambling. No person shall allow gambling or gambling devices on the premises. (Ord. #238, March 1991)

8-220. Illicit liquors in establishments. No persons shall allow any liquors or beverages of alcoholic content greater than five percent (5%) by weight to be brought into his premises. (Ord. #238, March 1991)

8-221. Hours and days for sale. It shall be unlawful for any beer permit holder, his agent or employees to sell, give away, furnish or allow beer to be consumed on any premises or to sell, give away or furnish beer consumed off premises from 12:00 A.M. (midnight) to 7:00 A.M. Monday through

Saturdays and at no time on Sundays. On New Year's Eve, regardless of the day of the week upon which New Year's Eve falls, beer sales may continue until 2:00 A.M. unless New Year's Eve falls on a Sunday, on which event, there will be no beer sales. (Ord. #238, March 1991)

8-222. License required. No person shall engage in the storing, selling, distributing or manufacturing of beer within the corporate limits of the City of Westmoreland until he shall have received a permit to do so from the city recorder. (Ord. #238, March 1991)

8-223. Penalties. Any person who is convicted of violating any provision of this chapter is guilty of an offense and shall be fined a sum not exceeding fifty dollars (\$50.00). Each provision violated shall constitute a separate offense as to each provision and shall be punishable as such. In addition, any person or permittee or their agent or employee or any other person who violates any provision of this chapter may have their permit revoked and/or the permit of the premises on which said violation occurs. (Ord. #238, March 1991)

8-224. Permit required. No person shall sell beer within the territorial jurisdiction of the city without being the holder of a valid permit. (Ord. #238, March 1991)

8-225. Types of permits. The following types of permits may be issued by the council:

(1) A wholesaler's permit may be issued to each distributor, manufacturer, brewer or brewery or manufacturer's branch selling beer only directly to retailers.

(2) A retailer's "off-premises" permit may be issued to any person engaged in the sale of beer for consumption and not resale where the beer sold is not to be consumed by the purchaser upon or near the premises of such retailer.

(3) A retailer's "on-premises" permit may be issued to any person engaged in the sale of beer where the beer is to be consumed by the purchaser or his guests upon the premises of the seller. (Ord. #238, March 1991)

8-226. Applications; agreements by applicant; floor plans. (1) Any person desiring a beer permit shall file in person with the council a written application under oath at least ten (10) days prior to the date of hearing. No such permit shall be issued until the council has approved written application for the permit which application shall contain questions necessary to determine whether or not the applicant has met all the laws of this state and all the ordinances of the city then in effect. The form of such application shall be prescribed by the council. The application shall be sworn to and signed by the applicant. Any fraud or misrepresentation of statements on the application

whether intentional or not may completely disqualify that applicant from obtaining a permit for a period of one (1) year from the discovery of said fraud or misrepresentation or misstatement.

(2) Along with the letter of application, the applicant must submit letters from a licensed surveyor indicating the distance between the nearest door of the applicant's business establishment and the nearest door of any nearby church, school or other place of public gathering. The cost of this survey and letter as required herein is to be born by the applicant.

(3) Additionally, the applicant shall establish the following:

(a) That the applicant is a legal resident of the United States, or if a syndicate or association, that all the members are legal residents of the United States; or if a corporation, that the corporation is a Tennessee corporation; or if a foreign corporation, that the corporation has been domesticated in the State of Tennessee.

(b) That the owner of the business and/or the applicant will be on the business premises for which permit is requested, for a minimum of forty (40) hours per week. Further, that the manager is a resident of the State of Tennessee.

(c) The location of the premises where the business will be conducted and the names and addresses of the owners of such premises.

(d) That neither applicant nor any persons employed by him in such distribution or sale of beer shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture or transportation of intoxicating liquor or any felony, or any crime involving moral turpitude within the past ten (10) years.

(e) In said application the person so applying shall state that he will conduct the business in person, or he shall indicate whether he is acting as agent for any other person, firm, corporation, syndicate, association, or joint stock company and if so, the name of the person who will be the manager of the business and on premises for a minimum of forty (40) hours per week.

(f) The specific type establishment applicant proposes to operate and the specific address of the proposed establishment.

(4) The council in its discretion may include in the application such other questions and inquiries as it deems relevant and material to protect the public health, safety and morals of the inhabitants of the city.

(5) No permittee shall open his premises to the public for the sale of beer until the permittee shall first have filed with the council floor plans and diagrams completely disclosing and designating a physical arrangement of the premises.

(6) Any person making false statement in such application shall forfeit his permit, and shall not be eligible to receive any permit for a period of ten (10) years. (Ord. #238, March 1991)

8-227. Permit fees. (1) All applications for the issuance of permits shall be accompanied by an application fee of one hundred dollars (\$100.00) for use in offsetting the expenses of investigating the applicant and processing the application.

(2) All applications for the issuance of permits for the change in on-premises management of an establishment licensed by the council shall be accompanied by a change in on-premises management fee in the amount of one hundred dollars (\$100.00) for use in offsetting expenses of investigating the applicant and processing the application. (Ord. #238, March 1991)

8-228. Investigation of applicant. The police department of the City of Westmoreland shall conduct an investigation of each applicant for a permit and specifically to ascertain whether or not the applicant has ever been convicted of any offense which would prohibit issuance of a permit. (Ord. #238, March 1991)

8-229. Conditions of permits. Every person to whom a beer permit is issued agrees to the following conditions:

(1) The premises are declared to be a public place for the purpose of inspection by officers of the police department or by any other duly authorized officials.

(2) The permit holder shall keep invoices and all other memoranda fully descriptive relating in any way to the storing, sale, distribution by sale or gift or manufacture of beer, and he shall permit the director of finance or his duly authorized agents, representatives or employees to inspect, at any time during the business hours of the day, all such articles, containers, packages, invoices, books, papers and memoranda as may be deemed necessary in the opinion of the director of finance or his authorized agent, representative or employee in ascertaining whether or not all state and local taxes have been paid or in determining the amount of such taxes that may be due. On-premises permit holders shall keep a separate record clearly indicating the receipts from sale of alcoholic beverages and the percentage of such receipts in relation to the gross receipts of the business, and shall produce such records to the council or the city's director of finance upon request.

(3) The permit holder shall display all permits issued pursuant to this chapter in a conspicuous place, together with all other permits, licenses and stamps required by law.

(4) The permit holder shall comply with all ordinances of the city. (Ord. #238, March 1991)

8-230. Minimum distance from church, school, etc.; conditions under which issuance of a permit prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic, would interfere with schools, churches, state institutions, or places of public

gathering or would otherwise interfere with public health, safety and morals. In no event will a permit be issued authorizing the storage, sale, manufacture of beer at places within three hundred feet (300') of any church, school, or state institution, as measured from the nearest door to the nearest door of each establishment; provided, however, this provision shall not affect those businesses which had valid permits on the date of this ordinance being passed. Further, this provision would not affect such a location if it should change ownership in the future. (Ord. #491, March 2010)

8-231. When license not to issue--unsuitable types of establishments. The following establishments are hereby declared unsuitable for the retail sale of beer, no permit, therefore, shall be granted:

- (1) Establishments in predominantly residential districts.
- (2) Establishments which are not kept in a clean and sanitary condition.
- (3) Establishments which are not equipped with necessary toilet facilities approved by the city health department.
- (4) Establishments that are not adequately lighted and ventilated.
- (5) Establishments situated in alleys, upstairs, or in basements.
- (6) Establishments which are equipped with windows which are painted or otherwise not transparent. (Ord. #238, March 1991)

8-232. Conditions under which issuance of a permit prohibited.

- (1) No permit shall be issued to any person for a location which fails to comply with any state law or any zoning ordinance of the city, expressly including any zoning ordinance.
- (2) Where a beer permit is revoked, no new permit shall be issued to permit the sale of beer on the same premises until after the expiration of one year from the date such revocation becomes final and effective.
- (3) No permit shall be issued where the applicant has had revoked, within ten (10) years, either a permit issued for the sale of beer by any board duly created within a county or municipality of this state or any license for the sale of liquor in any form by the alcoholic beverage commission of this state. (Ord. #238, March 1991)

8-233. Address of location where sales authorized to be specified on permit. The specific address and description of the premises where beer is authorized to be sold shall be stated on the face of each permit issued by the council, and no permit shall be valid unless such address and description of the premises are stated on the face of such permit, along with a photograph of the permit-holder. (Ord. #238, March 1991)

8-234. Non-transferability. Permits issued by the council shall not be transferred from one person to another. Where the holder of a permit desires

to move his place of business from one location to another, he shall apply for a new permit for the new location and shall surrender the permit for the location which he has abandoned. (Ord. #238, March 1991)

8-235. Suspension and revocation. The council shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending any permits issued by it upon notice to the permittee and a hearing thereon, for any violation of any provision of state or federal law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of state or federal law regulating the sale, storage and transportation of alcoholic beverages or for any violation of any provision of this chapter, expressly including the prohibited acts herein, or any statute of the State of Tennessee regulating beer or other alcoholic beverage. (Ord. #238, March 1991)

8-236. Wholesale beer tax. The city recorder is hereby directed to take appropriate action to ensure payment to the city of the wholesale beer tax levied by the Wholesale Beer Tax Act, Tennessee Code Annotated, § 57-6-101, et seq. (Ord. #238, March 1991)

8-237. Public dances and dance halls. (1) Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

(a) "Known." Such term, used in connection with the words "prostitute," "male or female procurer" or "vagrant," shall mean known to the manager, owner or lessee of a public dance hall, or to the person conducting a public dance, or to the police or other authorities having to do with the regulation and supervision of public dance halls or public dances, to be one of the persons named, or who has such general reputation or character, or one who has pleaded guilty to or has been convicted of being a prostitute, male or female procurer or vagrant.

(b) "Public dance." Any dance to which admission can be had by payment directly or indirectly of a fee or any dance to which the public generally may gain admission with or without the payment of a fee, and where beer is sold.

(c) "Public dance hall." Any room, place or space in which a public dance shall be held, and where beer or alcoholic beverages are sold.

(2) Permit from council; permit fee. It shall be unlawful to hold or conduct a public dance or to operate any public dance hall within the city until such dance hall or other place in which such public dance may be held shall first have been issued a permit by the council for the operation of such dance hall or for the holding of such dance. An application fee of one hundred dollars (\$100.00) per year shall be required to maintain said permit.

(3) Requirements for permit to operate public dance halls. No permit for the operation of a public dance hall shall be issued until it shall be found

that the place for which the same is issued complies with and conforms to all laws, ordinances, health and fire regulations applicable thereto, is properly ventilated and supplied with separate and sufficient toilet conveniences for each sex and is a safe and proper place for the purpose for which it shall be used. The permit for such dance hall shall be in writing and shall be posted in a conspicuous place in the dance hall at all times when the same shall be operated.

(4) Revocation and re-issuance of permit; duties of council. The permit to operate any public dance hall may be revoked for the violation of any provision of this chapter or other ordinances or laws relating to such places, and upon the revocation of the permit to operate such public dance hall, at least three months shall elapse before another permit shall be granted to the manager, owner, lessee of such dance hall to operate the same.

The procedure provided by the laws of the city relative to the council and by the rules and regulations adopted by the council for the revocation of permits to sell beer shall be applicable to the revocation of permits of public dance halls or public dances. The council shall be charged with the duty of supplying application forms for permits for permission to operate a public dance hall or a public dance and such forms shall contain such pertinent questions to be answered by the applicant, and to be sworn to, as is deemed to be necessary and proper by a majority of the members of the council. The council is hereby authorized to adopt such rules and regulations for the proper regulation and supervision of public dance halls and public dances as a majority of the council shall decide in conformity with the provisions of this chapter.

(5) Conduct at public dances; prohibitions. It shall be unlawful for any person to whom a dance hall permit has been issued for any person conducting a public dance hall or public dance to allow or permit in such dance hall or at such dance any indecent act to be committed or any disorder or conduct of a gross, violent or vulgar character, or to permit in any such dance hall or at any such dance any known prostitute, pimp, or procurer. It shall be unlawful for any known prostitute, male, female procurer or vagrant to be present at any public dance or at any public dance hall.

(6) Minors at dances. It shall be unlawful for any person to whom a dance hall permit has been issued or for any person conducting a public dance hall to permit in such dance hall any person under the age of eighteen (18) years when beer is sold on the premises, unless such minor is accompanied by one or both of his parents, or a legal guardian or an adult who has been given parental permission.

(7) Hours of closing. All public dances shall be discontinued and all public dance halls closed from 12:00 A.M. (Midnight) to 8:00 A.M. Monday through Saturday and at no time on Sundays. On New Year's Eve, regardless of the day of week upon which New Year's Eve falls, dance halls may continue until 2:00 A.M. unless New Year's Eve falls on a Sunday, on which event, there will be no opening of dance halls. (Ord. #238, March 1991)

8-238. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to Tennessee Code Annotated, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of Tennessee Code Annotated, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-239. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," Tennessee Code Annotated, § 57-5-601, et seq.

(2) Penalty, revocation or suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose.

8-240. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under Tennessee Code Annotated, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. POOL ROOMS.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 9-101. "Going out of business" sales.
- 9-102. Selling merchandise in parking lots, etc.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1978 Code, § 5-101)

9-102. Selling merchandise in parking lots, etc. Merchants may not set up displays for selling merchandise in front of city businesses, in parking lots, or on city property. (Ord. #229, June 1989)

¹Municipal code references

Building, plumbing, wiring and housing regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1978 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1978 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code references
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two inches (2") square showing the head and shoulders of the applicant.

(7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to evaluate properly the applicant's moral reputation and business responsibility.

(8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance; the nature of the offense; and, the punishment or penalty assessed therefor.

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the municipality to cover the cost of investigating the facts stated therein. (1978 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1978 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the city council. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer

in the same manner as a summons at least three (3) days prior to the date set for hearing. (1978 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the City of Westmoreland and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1978 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1978 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1978 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1978 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1978 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the city council after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1978 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1978 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1978 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1978 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

- (1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.
- (2) The control and supervision of the solicitation will be under responsible and reliable persons.
- (3) The applicant has not engaged in any fraudulent transaction or enterprise.
- (4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.
- (5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1978 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the city council if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1978 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1978 Code, § 5-304)

CHAPTER 4

POOL ROOMS¹

SECTION

9-401. Prohibited in residential areas.

9-402. Hours of operation regulated.

9-403. Minors to be kept out; exception.

9-404. Gambling etc., not to be allowed.

9-401. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1978 Code, § 5-401)

9-402. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1978 Code, § 5-402)

9-403. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1978 Code, § 5-403)

9-404. Gambling, etc., not to be allowed. It shall be unlawful for any person operating, conducting, or maintaining any place where pool tables or billiard tables are kept for public use or hire to permit any gambling or other unlawful or immoral conduct on such premises. (1978 Code, § 5-404)

¹Municipal code reference
Privilege taxes: title 5.

TITLE 10**ANIMAL CONTROL****CHAPTER**

1. IN GENERAL.
2. DOMESTIC ANIMALS AND PETS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Sale or storage for sale of stock or poultry.
- 10-107. Cruel treatment prohibited.
- 10-108. Seizure and disposition of animals.
- 10-109. Inspections of premises.
- 10-110. Violations.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1978 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep any animal or fowl enumerated in the preceding section within one thousand feet (1,000') of any residence, place of business, or public street, without a permit from the health officer. The health officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1978 Code, § 3-102)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen, or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1978 Code, § 3-103)

10-104. Storage of food. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle. (1978 Code, § 3-104, modified)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1978 Code, § 3-105)

10-106. Sale or storage for sale of stock or poultry. It shall be unlawful for any person or persons to carry on or permit to be carried on his or its property any stock or poultry for the purpose of keeping the same for sale or stored for sale and permit the same to be done for a period exceeding ten (10) days time. (1978 Code, § 3-106)

10-107. Cruel treatment prohibited. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1978 Code, § 3-107)

10-108. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by the city marshal or any deputy marshal and confined in a pound provided or designated by the city council. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the city council.

The pound keeper shall be entitled to collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the city council, to cover the costs of impoundment and maintenance. (1978 Code, § 3-108)

10-109. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1978 Code, § 3-109)

10-110. Violations. The violation of any section or subsection of this chapter shall constitute a misdemeanor and be punishable in accordance with

the general penalty clause for this code. Each day's violation shall constitute a separate offense. (1978 Code, § 3-110)

CHAPTER 2

DOMESTIC ANIMALS AND PETS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of domestic animals and pets.
- 10-208. Violations and penalties.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1978 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1978 Code, § 3-202)

10-203. Running at large prohibited. It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1978 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1978 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1978 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or city marshal may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1978 Code, § 3-206)

10-207. Seizure and disposition of domestic animals and pets. Any domestic animal or pet found running at large may be seized by the health officer or the city marshal or any deputy marshal and placed in a pound provided or designated by the city council. If said domestic animal or pet is wearing a tag the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his domestic animal or pet by paying a reasonable pound fee, in accordance with a schedule approved by the city council, or the domestic animal or pet will be humanely destroyed or sold. If said domestic animal or pet is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No domestic animal or pet shall be released in any event from the pound unless or until such domestic animal or pet has been vaccinated and had a tag evidencing such vaccination placed on its collar.

When, because of its viciousness or apparent infection with rabies, a domestic animal or pet found running at large cannot be safely impounded it may be summarily destroyed by the health officer or any marshal.¹ (Ord. #352, June 2002)

10-208. Violations and penalties. The violation of any section or subsection of this chapter shall constitute a misdemeanor and be punishable in accordance with the general penalty clause for this code. Each day's violation shall constitute a separate offense. (Ord. #352, June 2002)

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

TITLE 11**MUNICIPAL OFFENSES¹****CHAPTER**

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
4. FIREARMS, WEAPONS AND MISSILES.
5. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
6. MISCELLANEOUS.
7. GAMBLING.
8. CURFEW FOR MINORS.

CHAPTER 1**ALCOHOL²****SECTION**

- 11-101. Drinking beer, etc., on streets, etc.
11-102. Public intoxication.
11-103. Transportation of intoxicating liquor.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has an appropriate permit and/or license for on premises consumption. (1978 Code, § 10-230)

11-102. Public intoxication. A person commits the offense of public intoxication who appears in a public place under the influence of a controlled substance or any other intoxicating substance to the degree that:

- (1) The offender may be endangered;

¹Municipal code references

Animal control: title 10.

Housing and utility codes: title 12.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

- (2) There is endangerment to other persons or property; or
- (3) The offender unreasonably annoys people in the vicinity.

11-103. Transportation of intoxicating liquor. It shall be unlawful, and is hereby declared to be a misdemeanor, for any person to transport or carry, in any way or manner whatever, any intoxicating liquor, including whiskey, wine, ale, or gin, within or through the City of Westmoreland, or any part thereof; or from any point outside the city to any point within the city; or from any point without the city through any part of the city to any point outside the same, except as provided by the general statutes of the State of Tennessee. (1978 Code, § 10-231)

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Disturbing the peace.

11-202. Anti-noise regulations.

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1978 Code, § 10-202)

11-202. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the

quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

(d) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(e) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(f) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(1) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the municipality while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the City of Westmoreland, Sumner County, or the State of Tennessee, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1978 Code, § 10-235)

CHAPTER 3

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-301. Impersonating a government officer or employee.

11-302. False emergency alarms.

11-301. Impersonating a government officer or employee. No person other than an official police officer of the City of Westmoreland shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1978 Code, § 10-211)

11-302. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1978 Code, § 10-217)

CHAPTER 4

FIREARMS, WEAPONS AND MISSILES

SECTION

11-401. Air rifles, etc.

11-402. Weapons and firearms generally.

11-401. Air rifles, etc. It shall be unlawful for any person in the City of Westmoreland to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1978 Code, § 10-213)

11-402. Weapons and firearms generally. It shall be unlawful for any unauthorized person to discharge a firearm within the municipality. (1978 Code, § 10-212, modified)

CHAPTER 5

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-501. Trespassing.

11-502. Trespassing on trains.

11-503. Interference with traffic.

11-501. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1978 Code, § 10-227)

11-502. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting in the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1978 Code, § 10-221)

11-503. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1978 Code, § 10-234)

CHAPTER 6

MISCELLANEOUS

SECTION

11-601. Caves, wells, cisterns, etc.

11-602. Posting notices, etc.

11-603. Wearing masks.

11-601. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1978 Code, § 10-233)

11-602. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so. (1978 Code, § 10-228)

11-603. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

- (1) Children under the age of ten (10) years.
- (2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.
- (3) Persons wearing gas masks in civil defense drills and exercises or emergencies.
- (4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1978 Code, § 10-236)

CHAPTER 7**GAMBLING****SECTION**

11-701. Gambling.

11-702. Promotion of gambling.

11-701. Gambling. It shall be unlawful for any person to play at any game of hazard or chance for money or other valuable thing or to make or accept any bet or wager for money or other valuable thing. (1978 Code, § 10-215)

11-702. Promotion of gambling. It shall be unlawful for any person to encourage, promote, aid, or assist the playing at any game, or the making of any bet or wager, for money or other valuable thing, or to possess, keep, or exhibit for the purpose of gambling, any gaming table, device, ticket, or any other gambling paraphernalia. (1978 Code, § 10-216)

CHAPTER 8

CURFEW FOR MINORS

SECTION

- 11-801. Purpose.
- 11-802. Definitions.
- 11-803. Curfew enacted; exceptions.
- 11-804. Parental involvement in violation unlawful.
- 11-805. Involvement by owner or operator of vehicle unlawful.
- 11-806. Involvement by operator or employee of establishment unlawful.
- 11-807. Giving false information unlawful.
- 11-808. Enforcement.
- 11-809. Violations punishable by fine.

11-801. Purpose. The purpose of this chapter is to:

- (1) Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the city;
- (2) Promote the safety and well-being of minors, whose inexperience renders them particularly vulnerable to becoming participants in unlawful activity, particularly unlawful drug activity, and to being victimized by older criminals; and
- (3) Foster and strengthen parental responsibility for children.

11-802. Definitions. As used in this chapter, the following words have the following meanings:

- (1) "Curfew hours" means the hours of 12:30 A.M. through 6:00 A.M. each day.
- (2) "Emergency" means unforeseen circumstances, and the resulting condition or status, requiring immediate action to safeguard life, limb, or property. The word includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.
- (3) "Establishment" means any privately-owned business place within the city operated for a profit and to which the public is invited, including, but not limited to, any place of amusement or entertainment. The word "operator" with respect to an establishment means any person, firm, association, partnership (including its members or partners), and any corporation (including its officers) conducting or managing the establishment.
- (4) "Minor" means any person under eighteen (18) years of age who has not been emancipated under Tennessee Code Annotated, § 29-31-101, et seq.
- (5) "Parent" means:

(a) A person who is a minor's biological or adoptive parent and who has legal custody of the minor, including either parent if custody is shared under a court order or agreement;

(b) A person who is the biological or adoptive parent with whom a minor regularly resides;

(c) A person judicially appointed as the legal guardian of a minor; and/or

(d) A person eighteen (18) years of age or older standing in loco parentis as indicated by authorization by a parent as defined in this definition for the person to assume the care or physical custody of the minor, or as indicated by any other circumstances).

(6) "Person" means an individual and not a legal entity.

(7) "Public place" means any place to which the public or a substantial portion of the public has access, including, but not limited to: streets, sidewalks, alleys, parks, and the common areas of schools, hospitals, apartment houses or buildings, office buildings, transportation facilities, and shops.

(8) "Remain" means

(a) to linger or stay at or upon a place or

(b) to fail to leave a place when requested to do so by a law enforcement officer or by the owner, operator, or other person in control of that place.

(9) "Temporary care facility" means a non-locked, non-restrictive shelter at which a minor may wait, under visual supervision, to be retrieved by a parent. A minor waiting in a temporary care facility may not be handcuffed or secured by handcuffs or otherwise to any stationary object.

11-803. Curfew enacted; exceptions. It is unlawful for any minor, during curfew hours, to remain in or upon any public place within the city, to remain in any motor vehicle operating or parked on any public place within the city, or to remain in or upon the premises of any establishment within the city, unless:

(1) The minor is accompanied by a parent; or

(2) The minor is involved in an emergency; or

(3) The minor is engaged in an employment activity, or is going to or returning home from employment activity, without detour or stop; or

(4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or

(5) The minor is attending an activity supervised by adults and sponsored by a school, religious, or civic organization, by a public organization or agency, or by a similar organization, or the minor is going to or returning from such an activity without detour or stop; or

(6) The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the name, signature, address, and telephone number of the parent authorizing the errand,

the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; or

(7) The minor is involved in interstate travel through, or beginning or terminating in, the City of Westmoreland; or

(8) The minor is exercising First Amendment rights protected by the U.S. Constitution, such as the free exercise of religion, freedom of speech, and freedom of assembly.

11-804. Parental involvement in violation unlawful. It is unlawful for a minor's parent knowingly to permit, allow, or encourage a violation of § 11-803 of this chapter.

11-805. Involvement by owner or operator of vehicle unlawful. It is unlawful for a person who is the owner or operator of a motor vehicle knowingly to permit, allow, or encourage a violation of § 11-803 of this chapter using the motor vehicle.

11-806. Involvement by operator or employee of establishment unlawful. It is unlawful for the operator or any employee of an establishment knowingly to permit, allow, or encourage a minor to remain on the premises of the establishment during curfew hours. It is a defense to prosecution under this section that the operator or employee promptly notified law enforcement officials that a minor was present during curfew hours and refused to leave.

11-807. Giving false information unlawful. It is unlawful for any person, including a minor, knowingly to give a false name, address, or telephone number to any law enforcement officer investigating a possible violation of § 11-803 of this chapter. Each violation of this section is punishable by a maximum fine of fifty dollars (\$50.00).

11-808. Enforcement. (1) Minors. Before taking any enforcement action, a law enforcement officer who is notified of a possible violation of § 11-803 shall make an immediate investigation to determine whether or not the presence of the minor in a public place, motor vehicle, or establishment during curfew hours is a violation of that section. If the investigation reveals a violation and the minor has not previously been issued a warning, the officer shall issue a verbal warning to the minor to be followed by a written warning mailed by the police department to the minor and his/her parent(s). If the minor has previously been issued a warning for a violation, the officer shall charge the minor with a violation of § 11-803 and shall issue a citation requiring the minor to appear in court. In either case, the officer shall, as soon as practicable, release the minor to his/her parent(s) or place the minor in a temporary care facility for

a period not to exceed the remainder of the curfew hours so the parent(s) may retrieve the minor. If a minor refuses to give an officer his/her name and address or the name and address of his/her parent(s), or if no parent can be located before the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a crisis center or juvenile shelter and/or may be taken to a judge or juvenile intake officer of the juvenile court to be dealt with as required by law.

(2) Others. If an officer's investigation reveals that a person has violated §§ 11-803, 11-804, 11-805, or 11-806 of this chapter and the person has not been issued a warning with respect to a violation, the officer shall issue a verbal warning to the person to be followed by a written warning mailed by the police department to the person. If there has been a previous warning to the person, the officer shall charge the person with a violation and issue a citation directing the person to appear in court.

11-809. Violations punishable by fine. A violation of §§ 11-803, 11-804, 11-805, or 11-806 subsequent to receiving a verbal warning as provided in § 11-808 is punishable by a maximum fine of fifty dollars (\$50.00) for each violation.

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. MECHANICAL CODE.
5. BOARD OF ADJUSTMENTS AND APPEALS.

CHAPTER 1

BUILDING CODE¹

SECTION

- 12-101. Building code adopted.
- 12-102. Modifications.
- 12-103. Available in recorder's office.
- 12-104. Violations and penalty.

12-101. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the building code.

12-102. Modifications. (1) Definitions. Whenever in the international building code when reference is made to the duties of a certain official named therein, that designated official of the City of Westmoreland who has duties corresponding to those of the named official in said code shall be deemed to be

¹Municipal code references

Fire protection: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

the responsible official insofar as enforcing the provisions of the building code are concerned.

(2) Permit fees. The permit fees will be set by the city council and changed periodically.

12-103. Available in recorder's office. Pursuant to the requirements of the Tennessee Code Annotated § 6-54-502, one (1) copy of the international building code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. Administrative regulations adopting amendments to the building code will be placed on file when they are published by the building inspector, and at least fifteen (15) days before their effective date.

12-104. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. Plumbing code adopted.
- 12-202. Modifications.
- 12-203. Available in recorder's office.
- 12-204. Violations and penalty.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the city, when such plumbing is or is to be connected with the city water or sewerage system, the International Plumbing Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code.

12-202. Modifications. Definitions. Wherever the plumbing code refers to the "Chief Appointing Authority," the "Administrative Authority," or the "Governing Authority," it shall be deemed to be a reference to the board of commissioners.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city council to administer and enforce the provisions of the plumbing code.

12-203. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502 one (1) copy of the plumbing code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-204. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in recorder's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations and penalty.
- 12-305. Enforcement.
- 12-306. Fees.

12-301. Electrical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, and maintenance or use of electrical systems and equipment, or for other purposes, the International Electrical Code,² 2006 edition, as prepared by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code.

12-302. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-303. Permit required for electrical work. No electrical work shall be done within the city until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician.

12-304. Violations and penalty. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. The violation of any section of this chapter shall be punishable by a penalty under the general

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

12-305. Enforcement. The electrical inspector shall be such person as the city council shall appoint or designate. It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations, and may enter any premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code.

12-306. Fees. The electrical inspector shall collect the same fees as are authorized in Tennessee Code Annotated § 68-102-143 for electrical inspections by deputy inspectors of the state fire marshal.

CHAPTER 4

MECHANICAL CODE¹

SECTION

12-401. Mechanical code adopted.

12-402. Available in recorder's office.

12-403. Violations and penalty.

12-401. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing minimum regulations for mechanical systems using prescriptive and performance-related provisions, the International Mechanical Code,² 2006 edition, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the mechanical code.

12-402. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated § 6-54-502, one (1) copy of the mechanical code has been placed on file in the city recorder's office and shall be kept there for the use and inspection of the public.

12-403. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

¹Municipal code references

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 5

BOARD OF ADJUSTMENTS AND APPEALS

SECTION

- 12-501. Creation.
- 12-502. Membership.
- 12-503. Terms and removal of members.
- 12-504. Election of officers.
- 12-505. Purpose.
- 12-506. Quorum; meetings and by-laws.
- 12-507. Appeals to board.
- 12-508. Powers.
- 12-509. Enforcement of decisions.
- 12-510. Notice of appeal to board.
- 12-511. Time for hearing.
- 12-512. Rules of procedure.
- 12-513. Timeliness of decisions.

12-501. Creation. There is hereby established the Board of Adjustments and Appeals for the City of Westmoreland. (Ord. #299, April 1996)

12-502. Membership. The board shall consist of seven (7) members and two (2) alternates, all of whom shall be appointed by majority vote of the city council. The members must be residents of the City of Westmoreland. The members should be composed of individuals with knowledge and experience in the technical codes, such as design professionals, contractors or building industry representatives. Of the two (2) alternate members, one (1) shall be a member at large from the building industry and one (1) shall be a member at large from the public. A board member shall not act in a case in which he has a personal or financial interest. (Ord. #299, April 1996)

12-503. Terms and removal of members. The members shall be appointed for three (3) year terms, except that on the initial appointment, two (2) shall be appointed for one (1) year, two (2) for two (2) years, and three (3) for three (3) years, so as to insure that no more than one-third (1/3) of the board is appointed or replaced in any twelve (12) month period. The two (2) alternates shall serve one (1) year terms. Any one or more members of said board shall be subject to removal or replacement by the appointing authority at any time for cause of stated charges after a public hearing before the appointing authority, and a vacancy on said board shall be filled by the appointing authority for the unexpired term of such vacancy. The members of said board shall serve without compensation. Continued absence of any member from required meetings of the

board shall, at the discretion of the city council, render any such member subject to immediate removal from office. (Ord. #299, April 1996)

12-504. Election of officers. As soon as practical after their appointment, the members of the board shall meet and organize by electing a chairman and a vice-chairman. Thereafter officers of the board shall be elected by the members at the March meeting of the board. The building official shall act as secretary of the board and shall make a detailed record of all of its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member and any failure of a member to vote and shall handle such additional duties as the board may deem proper. All minutes of the meetings of the board shall be public records. (Ord. #299, April 1996)

12-505. Purpose. The board shall have the power to hear appeals of decisions and interpretations of the building official, housing official and fire official (hereinafter collectively referred to as "official") and consider variances of the technical codes. (Ord. #299, April 1996)

12-506. Quorum; meetings and by-laws. A simple majority of the board shall constitute a quorum. In varying any provision of the building code or fire code (hereinafter collectively referred to as "codes"), the affirmative votes of the majority present, but not less than three (3) affirmative votes, not less than a majority of the board, shall be required. In the event that regular members are unable to attend a meeting, the alternate members shall vote. (Ord. #299, April 1996, modified)

12-507. Appeals to board. The owner of a building, structure or service system, or his duly authorized agent, may appeal a decision of the appropriate official to the board whenever any one (1) of the following conditions are claimed to exist:

(1) The appropriate official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.

(2) The provisions of the codes, all as amended from time to time, do not apply to this specific case.

(3) That an equally good or more desirable form of installation can be employed in any specific case.

(4) The true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted. (Ord. #299, April 1996, modified)

12-508. Powers. The board, when so appealed to and after a hearing, may vary the application of any provisions of the codes to any particular case when, in its opinion, the enforcement thereof would be manifest injustice and

would be contrary to the spirit and purpose of the codes, the technical codes or public interest, or when, in its opinion the interpretation of the appropriate official shall be modified or reversed, and also finds all of the following:

(1) That special conditions and circumstances exist which are peculiar to the building structure or service system involved and which are not applicable to others.

(2) That the special conditions and circumstances do not result from the action or inaction of the applicant.

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the codes to other building structures or service system.

(4) That the variance granted is the minimum variance that will make possible the reasonable use of the building structure or service system.

(5) That the grant of the variance will be in harmony with the general intent and purpose of the codes and will not be detrimental to the public health, safety and general welfare. (Ord. #299, April 1996)

12-509. Enforcement of decisions. In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with the codes. Violation of the conditions of a variance shall be deemed a violation of the codes. (Ord. #299, April 1996)

12-510. Notice of appeal to board. Notice of appeal shall be in writing and filed within fifteen (15) calendar days after the decision is rendered by the appropriate official. Appeals shall be in a form acceptable to the appropriate official and shall be accompanied by the necessary fees as determined by the board from time to time. (Ord. #299, April 1996)

12-511. Time for hearing. In the case of a building, structure or service system which, in the opinion of the building official or fire official, as appropriate, is unsafe, unsanitary or dangerous, the building official or fire official, as applicable, may, in his order, limit the time for such appeals to a shorter period. (Ord. #299, April 1996)

12-512. Rules of procedure. The board shall establish its own rules of procedure for accomplishment of its duties and functions, provided that such rules shall not be in conflict with the provisions of the codes and the laws of the State of Tennessee. The board shall meet at regular intervals on call of the chairmen, but in any event, the board shall meet within ten (10) calendar days after notice of appeal has been received. Reasonable notice of the place, time and date of such meeting shall be given all of the members of the board and all interested parties in each case to be heard by the board. (Ord. #299, April 1996)

12-513. Timeliness of decisions. The board shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for the decision and shall specify in what manner such variance or modification is made and the conditions upon which such decision is made. If a decision of the board reverses or modifies a refusal, order or disallowance of the appropriate official, or varies the application of any provision of the codes, the appropriate official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the building official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the appropriate official for two (2) weeks after filing. Every decision of the board shall be final, subject however, to such remedy as an aggrieved party might have at law or in equity. (Ord. #299, April 1996)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.
- 13-108. Notice to owner of unsanitary conditions.
- 13-109. Hearing.
- 13-110. Remedy at expense of owner; lien on property; hearing.
- 13-111. Records to be kept.

13-101. Health officer. The "health officer" shall be such municipal, county, or state officer as the city council shall appoint or designate to administer and enforce health and sanitation regulations within the City of Westmoreland. (1978 Code, § 8-101)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1978 Code, § 8-105)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property

¹Municipal code references
 Animal control: title 10.
 Littering streets, etc.: § 16-107.

without treating it so as effectively to prevent the breeding of mosquitoes. (1978 Code, § 8-106)

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or city marshal to cut such vegetation when it has reached a height of over one foot (1'). (1978 Code, § 8-107)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the health officer and dispose of such animal in such manner as the health officer shall direct. (1978 Code, § 8-112)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1978 Code, § 8-113)

13-107. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the City of Westmoreland and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1978 Code, § 8-104)

13-108. Notice to owner of unsanitary conditions. If the mayor of the City of Westmoreland finds debris, junk automobiles, scrap metal, rubbish, trash, tin cans, papers or stagnant water has accumulated, or a dense growth of trees, vines, grass and underbrush has developed on any lot, tract or parcel of land within the City of Westmoreland to such an extent that it constitutes a menace to life, property, the public health, the public welfare, or creates a fire hazard, he shall notify the record owner of such property in writing, at his last known mailing address, that he has found that debris, junk automobiles, scrap metal, rubbish, trash, tin cans, papers or stagnant water has accumulated, or a dense growth of trees, vines, grass and underbrush has developed on the lot, tract or parcel of land, described in said notice, to such an extent that it constitutes a menace to life, property, the public health, the public welfare or creates a fire hazard, and demand that such owner cause such condition to be

remedied forthwith. He shall also cause a copy of said notice to be served by a police officer of the City of Westmoreland upon the occupant of said property, or upon any agent of the owner thereof. The mailing of such notice shall be sufficient proof thereof, and the delivery of notice shall be equivalent to mailing. If the mailing address of the owner is not known, and the property is unoccupied, and the owner has no agent in the City of Westmoreland, said notice shall be posted upon said property as notice to the owner thereof. (1978 Code, § 8-108)

13-109. Hearing. Within twenty (20) days after the mailing of said notice, or the service thereof, the owner of said property shall have the right to have a hearing before the City Council of the City of Westmoreland to show that said condition does not exist, or to show why said debris, junk automobiles, scrap metal, rubbish, trash, tin cans, papers or stagnant water, or the dense growth of trees, grass, vines and underbrush that has developed on said lot or tract of land does not constitute a menace to life, property, the public health, the public welfare, or creates a fire hazard, or why said condition should not be remedied by the City of Westmoreland at the expense of the owner of said property. At said hearing the city and the property owner may introduce such witnesses as deemed necessary. (1978 Code, § 8-109)

13-110. Remedy at expense of owner; lien on property; hearing. If the condition described in said notice has not been remedied within twenty (20) days after the mailing, or service thereof, and in the event there is a hearing, as hereinabove provided, after notice to the property owner of the decision of the city council, the city mayor shall cause said condition to be remedied by the City of Westmoreland at the expense of the owner of said property. After causing said condition to be remedied, the mayor shall certify to the city recorder the expense incurred in remedying said condition, together with his certificate as to the condition of the property which necessitated incurring said expense, and a copy of the notice mentioned above with proof of service thereof, and a copy of the result of the hearing before the city council, whereupon said expense shall become and constitute a lien and charge upon said property, which shall be payable, with interest at the rate of six percent (6%) per annum, from the date of such certification until paid, at the time taxes on said property become due and payable to the City of Westmoreland, and which expense and charge shall be a first and prior lien against said property, subject only to the lien for taxes due the County of Sumner, and the same character as the lien of the City of Westmoreland for municipal taxes. Upon failure of the owner of said property to pay said lien it may be enforced in the same manner as tax liens in favor of the City of Westmoreland, and shall be certified by the city recorder to the city attorney along with the certification of taxes assessed against the property of the city.

Any property owner shall have a right to have a hearing before the city council of the City of Westmoreland to show cause, if any, why said expense and charge should not constitute a lien against the property. (1978 Code, § 8-110)

13-111. Records to be kept. The city recorder of the City of Westmoreland shall keep a complete set of files and records relating to such liens, and shall include the amounts of such liens in tax statements for taxes thereafter submitted to the owners of lots, tracts or parcels of land subject to such liens. (1978 Code, § 8-111)

CHAPTER 2**JUNKYARDS****SECTION**

13-201. Junkyards.

13-201. Junkyards. It shall be unlawful for any person, or persons, firms or corporations to carry onto or permit to be carried onto his or its property any junk or to permit any junk yard where junk of any kind is stored or permitted to remain for a period exceeding ten (10) days. (1978 Code, § 8-115)

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. GENERAL ZONING PROVISIONS.
3. R-1 SINGLE FAMILY RESIDENTIAL DISTRICTS (LOW DENSITY).
4. R-2 GENERAL RESIDENTIAL DISTRICTS (MEDIUM AND HIGH DENSITY).
5. R-3 MOBILE HOME PARKS.
6. GROUP HOUSING DEVELOPMENTS AND MOBILE HOME PARKS.
7. C-1 DISTRICTS (LOCAL CONVENIENCE SHOPPING AND COMMERCIAL OFFICE USES).
8. C-2 COMMERCIAL DISTRICTS (CENTRAL SHOPPING AREAS).
9. C-3 DISTRICTS (INTERCHANGE AND HIGHWAY COMMERCIAL).
10. INDUSTRIAL DISTRICTS.
11. AGRICULTURAL DISTRICTS.
12. FLOOD WAY DISTRICTS.
13. EXCEPTIONS AND MODIFICATIONS.
14. ENFORCEMENT.
15. BOARD OF ZONING APPEALS.
16. AMENDMENTS.
17. FLOODPLAIN DISTRICTS--FLOODPLAIN MANAGEMENT REGULATIONS.
18. MOBILE HOME STANDARDS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, rules, staff, and finances.
- 14-103. Powers and duties.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of six (6) members; two (2) of these shall be the mayor and another member of the city council selected by the city council; the other four (4) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the four (4) members appointed by the mayor

shall be for three (3) years each. The four (4) members first appointed shall be appointed for terms of one (1), two (2), three (3) and four (4) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the city council shall run concurrently with their terms of office.

Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1978 Code, § 11-101)

14-102. Organization, rules, staff, and finances. The municipal planning commission shall elect its chairman from amongst its appointive members. The planning commission shall adopt rules for the transactions, findings, and determinations, which record shall be a public record. The planning commission may appoint such employees and staff as it may deem necessary for its work and may contract with city planners and other consultants for such services as it may require. The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council. (1978 Code, § 11-102)

14-103. Powers and duties. From and after the time when the municipal planning commission shall have organized and selected its officers, together with the adoption of its rules of procedure, then said commission shall have all the powers, duties, and responsibilities as set forth in Tennessee Code Annotated, title 13, the public welfare requiring it. (1978 Code, § 11-103)

CHAPTER 2

GENERAL ZONING PROVISIONS

SECTION

- 14-201. Title.
- 14-202. Purpose.
- 14-203. Definition of terms.
- 14-204. Structures and uses to conform to district regulations.
- 14-205. Nonconforming uses and structures.
- 14-206. Number of structures and uses associated with a lot.
- 14-207. Emergency shelters.
- 14-208. Minimum lot area.
- 14-209. Rear yard abutting a public street.
- 14-210. Obstruction to vision at street intersection.
- 14-211. Automobile storage.
- 14-212. Other automobile storage requirements.
- 14-213. Loading or unloading space.
- 14-214. Vehicular access control.
- 14-215. Signs permitted in all districts.
- 14-216. Signs prohibited in all classified districts.
- 14-217. Landscape treatment.
- 14-218. Plot plan requirements.
- 14-219. Floodway fringe area requirements.
- 14-220. Classification of districts.

14-201. Title. Chapters 2 through 17 of this title shall be known as the "Zoning Ordinance of Westmoreland Tennessee" and the map herein referred to which is identified by the title "Official Zoning Map, Westmoreland, Tennessee" and all explanatory matters thereon are hereby adopted and made a part of chapters 2 through 17 of this title. The official zoning map shall be identified by the signature of the mayor attested by the mayor pro tempore. The official zoning map may be amended; provided, however, that no amendment of the official zoning map shall become effective until after such changes and entry has been made on said map and signed by the mayor and attested by the mayor pro tempore. (1978 Code, § 11-201)

14-202. Purpose. The zoning regulations and districts as herein set forth have been made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, morals, convenience, order, prosperity, and general welfare of Westmoreland. These provisions have been designed to lessen congestion in the streets; to secure safety from fires, panic, and other dangers; to allow adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote adequate transportation,

water, sewer, school, park, and other public systems; to conserve the value of buildings; and to encourage the most appropriate uses of land. (1978 Code, § 11-202)

14-203. Definition of terms. Unless otherwise stated the following words shall, for the purpose of chapters 2 through 17 of this title, have the meanings indicated. The present tense includes the future; singular includes the plural, and the plural the singular; "shall" in all cases is mandatory.

(1) "Abuts" or "abutting." Lots or land adjoining but separated by a common property line; also, those lots or lands which adjoin if property lines are extended to the center lines of streets.

(2) "Access ramp." A turning roadway at an interchange for travel between intersection legs.

(3) "Automobile graveyard." A yard, field or other area used as a space of storage for two (2) or more unserviceable, discarded, worn-out, or junked motor vehicles. A motor vehicle is defined as any self propelled vehicle not operated exclusively on a track, including motorcycles.

(4) "Building." Any structure built for, or occupied by, residence, business, industry, or other use, including a tent, lunch wagon, dining car, mobile home, travel trailer, or a similar structure whether stationary or movable.

(a) "Floor Area Ratio (FAR)." The floor area in square feet of all buildings on a lot, divided by the area of such lot in square feet.

(b) "Half-story." A story under a sloping roof, the finished floor area of which does not exceed one-half (1/2) of the floor area of the floor immediately below it; or a basement used for human occupancy if the floor area of the part of the basement thus used does not exceed fifty percent (50%) of the floor area immediately above.

(c) "Height of building." The distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of a building.

(d) "Story." That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or any portion of a building used for human occupancy between the topmost floor and the roof. A basement not used for human occupancy shall not be counted as a story.

(e) "Total floor area." The area of all floors of a building, including finished attic, finished basement, and covered porches used for habitation.

(5) "Dwelling." A house, mobile home, apartment building, boarding house, tourist home, or other structure designed or used primarily for human habitation. For the purpose of chapters 2 through 17 of this title, the word "dwelling" shall not include a travel trailer, hotel, motel, or tourist court.

(a) "Apartment." A housing structure containing four (4) or more separate dwelling units.

(b) "Dwelling unit." That area in a dwelling structure designed and constructed for the occupancy of one family.

(c) "Group housing development." Two (2) or more dwellings located on the same tract in one ownership and constructed as a planned development.

(d) "Mobile home" or "house trailer." A detached residential dwelling designed for transient use when utilized with a motor vehicle, and considered as a permanent dwelling when all sanitary and utility connections are in place.

(e) "Mobile home park." A place or tract of land upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located on a single lot or tract of land not subdivided.

(f) "Travel trailer." A vehicular portable structure having a body width not exceeding eight feet (8') (pick-up, piggy-back, or motorized camper, converted bus, tent-trailer, or trailer designated as a travel trailer by the manufacturer) designed as a temporary dwelling for travel and recreational purposes only.

(6) "Emergency shelter." A structure or portion of a structure intended to provide protection to human life during periods of danger from nuclear fallout, air raids, storms, and other emergencies.

(7) "Family." One (1) or more persons living as a single housekeeping unit.

(8) "Feeder road." A roadway which provides access to and from the interstate highway at an interchange.

(9) "Home occupation." An incidental occupation customarily carried on in the residence, utilizing no more than twenty-five percent (25%) of the usable floor area of all buildings; provided:

(a) No article or service be sold or offered for sale on the premises other than that produced by such occupation; and

(b) Such occupation shall not require the alteration of buildings, new construction, or equipment and machinery not customarily used in residential areas.

(10) "Interchange." A system in conjunction with a grade separation or grade separation of interconnecting roadways providing for the interchange of traffic between two (2) or more roadways on different levels.

(11) "Interstate highway." A highway having separate lanes for opposing directions of traffic with a wide median strip between and having full controlled access.

(12) "Junkyard." A yard, field, or other area used as a place of storage for discarded, worn-out, or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron,

steel, and other scrap ferrous or non-ferrous material, garbage dumps, waste dumps, and sanitary fills.

(13) "Landscape treatment." The use of both natural and artificial materials to enhance the physical appearance of a site, to improve its environmental setting, or to screen all or part of one land use from another.

(14) "Loading and unloading space." An area for the loading and unloading of trucks or other vehicles at least fifty feet (50') in depth, twelve feet (12') in width, (with an overhead clearance of not less than fourteen feet (14')), exclusive of access, platform, or maneuvering area.

(15) "Lot." A piece, parcel, or plot of land in one (1) ownership, which may include one (1) or more lots of record, occupied or to be occupied by one (1) or more principal structures and accessory structures and including the open spaces required under chapters 2 through 17 of this title.

(a) "Coverage." The relationship between the size of the building site and the amount of land utilized by principal and accessory structures.

(b) "Lot lines." The boundaries dividing a given lot from the street, an alley, or adjacent lots.

(c) "Lot of record." A lot whose existence, location, boundaries, and dimensions have been legally recorded in a deed or plat and filed as a legal record.

(16) "Nonconforming use." The use of a structure or of land that does not conform with the provisions of chapters 2 through 17 of this title for the district in which it is located.

(17) "Parking space." One vehicular parking space at least two hundred and forty (240) square feet in area and, at least ten feet (10') in width.

(a) "Gross parking area." An amount of land at least three hundred (300) square feet in area, to provide parking and driveway space adequate to accommodate one automobile in a parking area.

(b) "Automobile storage area." An off-street area reserved and suitable for automobile storage or parking, providing safe vehicular access to a public street or alley. See definition of "parking space."

(18) "Regulatory floodway." The stream channel and adjacent overbank areas that must be maintained free of obstructions to convey the waters of a 100-year flood, chosen as a basis for regulation, without increasing flow heights above assigned limits.

(19) "Shopping center." A group of compatible commercial establishments planned, developed, and managed as a unit, with an automobile storage area provided on the property; the center must also be related in location, size, and type of shops to its trade area.

(20) "Sign." Any structure or part thereof or device attached thereto, painted on, or in any other manner represented on a building or other structure, which is used to announce, direct attention to, or advertise, and is visible from outside a building which displays any writing (including letter, word, or

numeral); pictorial representation (including device, symbol, or trademark); flag (including banner or pennant); or any other figure of similar character. Any of the above characteristics constitutes a sign within a building only when illuminated and located in a window.

(a) "Ground sign" or "billboard." Any sign not attached to any part of any building and which is supported by uprights or braces, placed upon the ground.

(b) "Off-site sign." A sign which directs attention to a business commodity or service to be, or being, conducted, sold, rented, leased, or otherwise offered for disposition elsewhere than on the premises.

(c) "On-site sign." Any sign other than an off-site sign.

(d) "Sign area." The area of the sign, excluding the structural elements lying outside the limits of such sign and not forming an integral part of the display.

(e) "Temporary sign." Any sign which is by reason of construction or purpose intended to be displayed for a short period of time. Unless specifically stated elsewhere in chapters 2 through 17 of this title a period of three (3) months is the maximum time limit for the display of a temporary sign.

(f) "Flashing sign." A directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times.

(g) "Projecting sign." Any sign extending over the public sidewalk or beyond the street right-of-way boundary.

(h) "Roof sign." Any sign erected, constructed, or maintained upon the roof of any building.

(i) "Street graphic." A sign oriented toward traffic or a street right-of-way.

(j) "Wall sign." Any sign on any surface or plan that may be affixed parallel to or printed on the wall of any building.

(21) "Special exception." A special exception in chapters 2 through 17 of this title is one allowable where facts and conditions detailed in those chapters as those upon which an exception may be permitted are found to exist. Special exceptions may be granted by the board of zoning appeals only in those districts where special exceptions are permitted, and where the proposed use would not, in the opinion of the board, be detrimental to the character, pattern, and general welfare of the district.

(22) "Street." Any public or private way set aside for public travel which is thirty feet (30') or more in width. The word "street" shall include the words "road," "highway," and "thoroughfare."

(a) "Alley." Any public or private way less than thirty feet (30') in width set aside for public travel.

(b) "Arterial street or system." A continuous highway or system of highways which connects cities and concurrently absorbs collector traffic.

(c) "Center line of street." That line surveyed and monumented by appropriate governmental authority as the center of a street. If such line has not been surveyed, it shall be that line running midway between the outside curbs or ditches of such street.

(d) "Circulation." The flow of traffic, goods, or people within and through an area.

(e) "Collector street." An urban street which collects traffic from minor streets and feeds it into the arterial system.

(f) "Curb line." The line formed by a curb extending along its roadbed.

(g) "Point of access." On a public street, a driveway cut not exceeding twenty-five feet (25') in width, except as otherwise provided in chapters 2 through 17 of this title.

(h) "Right-of-way line of street." That line surveyed or approved by appropriate governmental authority as the outer boundary of a street. Such line is identical to or contiguous with any property line abutting a street, and is often referred to as "street line."

(23) "Structure." Any constructed or erected material or combination of materials, requiring space, including but not limited to, buildings, stadiums, radio towers, sheds, storage dens, fall-out shelters, swimming pools, fences, and signs.

(a) "Accessory structure." A subordinate structure, the use of which is incidental to that of a principal structure on the same lot.

(b) "Principal structure." A structure in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed the principal structure on the lot on which the same is situated. Carports and garages if permanently attached to the principal structure. Awnings, porches, patios, or similar attachments shall be deemed a part of the principal structure with regard to meeting any yard requirement.

(24) "Yard." Open space on the same lot with one or more principal structures unoccupied, and unobstructed by buildings from the ground to the sky, except as otherwise provided in chapters 2 through 17 of this title.

(a) "Front yard." The yard extending across the entire width of a lot between the right-of-way line of a public street and the nearest part of a principal structure. In the case of a corner lot, the regional zoning compliance officer shall identify the front yard for the purpose of compliance with chapters 2 through 17 of this title.

(b) "Rear yard." The yard extending across the entire width of a lot between the rear lot line and the nearest part of a principal structure.

(c) "Side yard." The yard extending along a side lot line from the front yard to the rear yard, and lying between the side lot line and the nearest part of a principal structure.

(d) "Yard depth." The shortest distance between the right-of-way line of a public street and the nearest part of a principal structure on a lot. (1978 Code, § 11-203)

14-204. Structures and uses to conform to district regulations.

Except as herein provided, within the corporate limits of the City of Westmoreland, Tennessee, no structure or land shall be used and no structure or parts thereof shall be erected, moved, or altered, unless for a use permitted by and in conformity with the regulations for the district in which it is located. (1978 Code, § 11-204)

14-205. Nonconforming uses and structures. All nonconforming uses of land shall be discontinued and all nonconforming structures shall be torn down, altered, moved, or otherwise made to conform within twenty-five (25) years, with the exception of junkyards, commercial animal yards, and lumber yards not on the same lot with a plant or factory, which shall be torn down, altered, moved, or otherwise made to conform within one (1) year from the date of enactment of the provisions of chapters 2 through 17 of this title.

(1) A nonconforming sign shall be made to conform within one (1) year.

(2) Mobile homes and mobile home parks shall be made to conform within eighteen (18) months from the date of enactment of the provisions of chapters 2 through 17 of this title.

(3) A lot of record on which a mobile home is located shall be made to conform within ten (10) years if located in R-2 zoning. If located in R-1 zoning the owner shall conform within eight (8) years. Said mobile home shall comply with standards as set forth in § 14-607(2).

(4) All nonconforming structures shall be razed after remaining vacant for one (1) year (three hundred sixty-five (365) days) after the date of adoption of the provisions of chapters 2 through 17 of this title. (1978 Code, § 11-205)

14-206. Number of structures and uses associated with a lot. No part of a yard or other open space, or automobile storage area, or loading and unloading space, required about or in connection with any structure for the purpose of complying with chapters 2 through 17 of this title, shall be included as a part of a yard, or other open space or automobile storage area, or loading or unloading space similarly required for any other structure.

With the exception of group housing developments, including mobile home parks, only one (1) principal structure and its customary accessory structures shall hereafter be erected on any lot in a residential district. No building shall be erected on a lot which does not abut at least one (1) street for at least fifty feet (50'). This section shall not apply to properties abutting a cul-de-sac, or to

those with an easement of at least thirty feet (30') in width to a street which has been accepted as a public thoroughfare. (1978 Code, § 11-206)

14-207. Emergency shelters. Emergency shelters are permitted as principal or accessory uses and structures in any district, subject to the yard and coverage regulations of the district. Such shelters may contain or be contained in other structures or may be constructed separately; and in addition to shelter use, may be used for any principal or accessory use permitted in the district, subject to the district regulations of such use, but shall not be used for principal or accessory uses prohibited expressly or by implication in the district. (1978 Code, § 11-207)

14-208. Minimum lot area. No existing yard or lot shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the provisions of chapters 2 through 17 of this title shall meet at least the minimum requirements established by those provisions. This section shall not apply when a portion of a lot is acquired for a public purpose, or in projects approved under cluster residential development provisions. (1978 Code, § 11-208)

14-209. Rear yard abutting a public street. When the rear yard of a lot abuts a public street, all structures built in that rear yard shall observe the same setback from the street line, center line of the street, or property line, as required for adjacent properties which front on that street. In addition, any structure located within twenty-five feet (25') of that setback line shall be no closer to any side property line than the distance required for side yards on adjoining properties fronting on that street. (1978 Code, § 11-209)

14-210. Obstruction to vision at street intersection. On a corner lot within the area formed by the center line of intersecting streets and a line joining points on such center lines at a distance of one hundred feet (100') from their intersection, there shall be no obstruction to vision between a height of three and one-half feet (3 1/2') and a height of ten feet (10') above the average grade of each street at the center line thereof. This section shall not be deemed to prohibit any necessary retaining wall. (1978 Code, § 11-210)

14-211. Automobile storage. An automobile storage area shall be provided on each lot in which any of the following uses are hereafter established. Such parking area shall meet the following minimum requirements:

(1) Amusement places (auditoriums, stadiums, theaters, or similar uses). One (1) parking space for the number of employees; plus the number of patron seats divided by three (3).

(2) Churches. Five (5) parking spaces for the first thirty (30) individual seating spaces; plus one (1) parking space for every twenty (20) individual seating spaces thereafter.

(3) Dining places (restaurants, tea rooms, night clubs, coffee shops, or similar uses). Three (3) square feet of automobile storage area for every square foot of customer service area; plus one (1) parking space for every four (4) employees.

(4) Funeral homes or mortuaries. One (1) parking space for every six (6) seats; or in the case of no fixed seats, one (1) parking space for every one hundred (100) square feet of chapel area; plus one (1) parking space for every funeral vehicle and one (1) for every resident family.

(5) Hospitals. One (1) parking space for every six (6) beds plus one (1) parking space for every doctor; plus one (1) parking space of every two (2) nurses and other employees.

(6) Hotels. One (1) parking space for every guest room; plus one (1) parking space for every three (3) employees.

(7) Industrial or manufacturing establishments. One (1) parking space for every three (3) employees; plus one (1) parking space for every business vehicle.

(8) Motels or cabins. One (1) parking space for every unit; plus one (1) parking space for every three (3) employees.

(9) Medical or dental clinics. Three (3) parking spaces for every doctor; plus one (1) parking space for every two (2) employees.

(10) Office, professional, or public buildings. Four (4) square feet of automobile storage area for every square foot of office space; plus one (1) parking space for every three (3) employees.

(11) Passenger terminals. Three (3) square feet of automobile storage area for every square foot of commercial floor area; plus one (1) parking space for every three (3) employees.

(12) Recreational areas (bowling alleys, swimming pools, skating rinks, or similar uses). Four (4) square feet of automobile storage area for every square foot of floor area devoted to recreational use.

(13) Retail business or personal service establishments. Four (4) square feet of automobile storage area for every square foot of customer service area; plus one (1) parking space for every three (3) employees.

(14) Roadside service facilities (service stations, repair shops, or similar uses). One parking space for every gasoline pump; plus one (1) parking space for every car wash room, every grease rack, every mechanic's stall, or similar area; plus one (1) parking space for very two (2) employees.

(15) Shopping centers. Four (4) square feet of automobile storage area for every square foot of building area; plus one (1) parking space for every three (3) employees.

(16) Wholesale businesses or warehousing. One (1) parking space for every three (3) employees; plus one (1) parking space for every business vehicle.

(17) Other structures or uses customarily requiring automobile storage areas. One (1) parking space for every one hundred (100) square feet of floor area occupied.

(18) Parking angle. Where ninety (90) degree parking is planned or required, a width of sixty-five (65) lineal feet shall be provided for two (2) tiers of automobiles separated by a two-way aisle. (1978 Code, § 11-211)

14-212. Other automobile storage requirements. If a required automobile storage area cannot be provided on the same lot with a principal use, the Westmoreland Board of Zoning Appeals may permit such space on other property not in a residential district to be used; provided, that it lies within four hundred feet (400') of the main entrance to such principal use. One-half (1/2) of the automobile storage area required for a church, theater, or other place of assembly, whose peak attendance is at another time, may be assigned to another use. (1978 Code, § 11-212)

14-213. Loading or unloading space. If loading or unloading space is required, one (1) loading space for standing, loading, and unloading shall be provided for each twenty-five thousand (25,000) square feet of gross floor space. (1978 Code, § 11-213)

14-214. Vehicular access control. (1) In a residential or industrial district, a point of access shall not be permitted within thirty feet (30') of the curb line (or street line when there is no curb) of any public street intersection.

(2) In a business district, a point of access shall not be permitted within twenty feet (20') of the curb line (or street line when there is no curb) of any public street intersection.

(3) In non-residential districts, vehicular service uses may be permitted points of access exceeding twenty-five feet (25') but not exceeding thirty-five feet (35') in width; provided, that they do not exceed fifty percent (50%) of their respective street frontage.

(4) On lots with less than one hundred feet (100') of street frontage, there shall be only one (1) point of access per adjoining street; however, on lots with more than one hundred feet (100'), there shall be not more than two (2) points of access per adjoining street. (1978 Code, § 11-214)

14-215. Signs permitted in all districts. The following signs shall be permitted in all districts:

(1) Signs of duly constituted governmental bodies including warnings at crossroads;

(2) Flags or emblems of political, civic, philanthropic, educational, or religious organizations;

(3) Temporary signs, totaling not over two (2) square feet of surface area on any lot, pertaining to campaigns, drives, or events of political, civic,

philanthropic, educational, or religious organizations, provided, that such surface area may not exceed two (2) square feet for a single period of not more than seven (7) days in any quarter calendar year;

(4) Memorial plaques, cornerstones, historical tablets, and the like;

(5) Signs not visible off the lot upon which they are situated;

(6) Signs posted in conjunction with door bells or mail boxes not exceeding seven (7) square inches of surface area.

(7) Signs required by law or governmental order, rule, or regulation, unless specifically prohibited, limited, or restricted;

(8) Small unilluminated signs, not exceeding one and one-half (1 1/2) square feet in surface area, displayed strictly for the direction, safety, and convenience of the public, including signs which identify rest rooms, parking area entrances or exits, freight entrances, and the like;

(9) Address signs, not more than one (1) for each street frontage or each principal use on a lot and not exceeding seventy-two (72) square inches in surface area, showing only the numerical address designations of the premises upon which they are situated;

(10) One (1) sign of not more than twelve (12) square feet pertaining to the sale, lease, hire, or rental of the property on which the sign is displayed; provided, that if said property faces more than one (1) street, one (1) sign shall be located not nearer than ten feet (10') to an adjoining premise, and not nearer than five feet (5') to a street right-of-way;

(11) One (1) temporary sign not to exceed twelve (12) square feet in area indicating the name of the contractors, engineers, and/or architects of a project during construction period;

(12) Permanent architecturally designed signs containing the name of individual developments if approved by the planning commission. (1978 Code, § 11-215)

14-216. Signs prohibited in all classified districts. The following signs shall be prohibited in all classified districts:

(1) Signs on any vacant lot or parcel of land lying between two (2) residential structures or uses where said structures or uses are less than one hundred feet (100') apart or located within fifty feet (50') of any residential use in the same block frontage.

(2) Off-site signs within one hundred feet (100') of any public school ground or public park.

(3) Except for public safety, no off-site signs within three hundred feet (300') of railroad crossings.

(4) Signs painted on or attached to fence posts, trees, rocks, canopy posts, or utility poles.

(5) Portable signs or signs using floodlights, spotlights, flashing or blinking lights and/or signs using variations in intensity of illumination; signs containing revolving or moving parts, or employing the words "stop," "help,"

"danger," or any other word implying distress or requesting sudden action on the part of the observer.

(6) Attached signs extending above the roof line of any building.

(7) Banners of any material placed so as to cross or partially be above any public street, sidewalk, alley or other thoroughfare, except as provided in § 14-215(3). (1978 Code, § 11-216)

14-217. Landscape treatment. Landscaping or screening shall be required, if deemed necessary by the planning commission, not to exceed ten percent (10%) of the total site area. (1978 Code, § 11-217)

14-218. Plot plan requirements. The purpose of this section is to prevent undesirable site development which would unduly create inadequate circulation and unnecessary congestion; to obtain maximum convenience, safety, economy, and identity in relation to adjacent sites; and to provide maximum flexibility for expansion, change in use, and adaptation to individual needs. Thus, applicants for zoning compliance certificates must submit scale drawings, according to the particular types of development proposals, to the Westmoreland Planning Commission (hereafter referred to as the planning commission), in accordance with the following procedures:

(1) Proposals for the construction or location of a single principal structure on a lot (with the exception of single-family and two-family dwellings) shall be submitted at a scale no smaller than one inch equals one hundred feet (1" = 100'), and must exhibit required automobile storage areas, loading and unloading spaces, maneuvering areas, openings for ingress and egress to public streets, utilities, sewage facilities, and landscape treatment in accordance with the general provisions previously outlined in the above sections of this chapter.

(2) Proposals for group housing developments, including mobile home parks, and for planned shopping centers shall follow separate provisions subsequently outlined in this title.

(3) The above applications must be supported by any other information or data as might be deemed necessary by the planning commission. (1978 Code, § 11-218)

14-219. Floodway fringe area requirements. The floodway fringe is that area lying outside the floodway district, as shown on the regional zoning map, but within the area subject to the largest flood on record. The use of land within the floodway fringe shall be subject to the following regulations:

(1) No building or structure shall be erected, and no existing building or structure shall be extended or moved unless the main floor of said building or structure is placed above the elevation of the flood referred to above. No basement floor or other floor shall be constructed below or at a lower elevation than the main floor. Foundations of all structures shall be designed to withstand flood conditions at the site.

(2) Any structure proposed to be located outside the floodway district but within one hundred feet (100') of any main drainage channel or stream (hereafter referred to as stream) within Westmoreland must be approved by the planning commission. The planning commission shall determine, on the basis of the area of the watershed and the probable runoff, the openings needed for the stream or how close a structure may be built to the stream in order to assure adequate space for the flow of flood waters; provided, however, no building shall be permitted within fifty feet (50') of the top of the bank of any stream. (1978 Code, § 11-219)

14-220. Classification of districts. For the purpose of chapters 2 through 17 of this title, the Westmoreland, Tennessee Planning Region is hereby divided into nine (9) districts as follows:

- (1) R-1 Residential (single family residential);
- (2) R-2 Residential (general residential);
- (3) R-3 Residential (mobile home parks);
- (4) C-1 Commercial (local convenience shopping and commercial office uses);
- (5) C-2 Commercial (central shopping areas);
- (6) C-3 Commercial (interchange and highway commercial);
- (7) I Industrial;
- (8) A Agricultural;
- (9) F Floodway.

The boundaries of these districts are hereby established as shown on the Westmoreland Zoning Map dated November 15, 1976 (hereafter referred to as the City of Westmoreland Zoning Map), which is on file in the office of the recorder.

Unless otherwise indicated on the regional zoning map, the district boundaries follow lot-lines, the center lines of streets or alleys, railroad rights-of-way, or the corporate limit lines as they existed at the time of enactment of chapters 2 through 17 of this title. (1978 Code, § 11-220)

CHAPTER 3

R-1 SINGLE FAMILY RESIDENTIAL DISTRICTS (LOW DENSITY)

SECTION

- 14-301. Intent.
- 14-302. Uses permitted.
- 14-303. Uses permitted on appeal.
- 14-304. Uses prohibited.
- 14-305. Lot area, lot width, and building area.
- 14-306. Height of buildings.
- 14-307. Location of accessory structures.

14-301. Intent. It is the intention of this chapter to provide a low density residential environment having good access to schools, public water, and other community services, but well separated from heavy traffic and other incompatible activities.

Within R-1 Single Family Residential Districts as shown on the city zoning map, the regulations of this chapter shall apply. (1978 Code, § 11-301)

14-302. Uses permitted. The following uses are permitted:

- (1) Single family dwellings;
- (2) Public elementary and high schools and private elementary and high schools with conventional academic curriculums similar to those in public elementary and high schools;
- (3) The taking of boarders or the renting or leasing of rooms by the family resident on the premises; provided, that not over twenty-five percent (25%) of the total floor area is used for such purpose;
- (4) Public and private parks, playgrounds and play-fields, country clubs and neighborhood and municipal buildings and uses in keeping with the character and requirements of the district;
- (5) Customary home occupations conducted within the principal structure, but only by a resident of the premises; provided, that not more than one person, not a resident of the premises, is employed;
- (6) One (1) unilluminated temporary on-site sign not exceeding one hundred (100) square feet in area, with no dimension exceeding twelve feet (12'), at each major approach to a subdivision advertising the sale of houses or lots. The display of such sign shall be limited to a period of six (6) months; any remaining nonconforming sign may be removed by the city at the expense of the owner;
- (7) One (1) unilluminated temporary on-site sign not exceeding sixteen (16) square feet in area, advertising the sale of farm or garden products for the duration of the harvest season;
- (8) Farming uses;

(9) Accessory uses or structures customarily incidental to the above permitted uses. (1978 Code, § 11-302)

14-303. Uses permitted on appeal. Churches or places intended for worship by a recognized religious body and any other similar uses or structures may be permitted on appeal subject to such condition as the Westmoreland Board of Zoning Appeals may require in order to preserve and protect the character of the area in which the proposed use is located. (1978 Code, § 11-303)

14-304. Uses prohibited. Mobile homes, billboards and similar advertising structures and uses not specifically permitted or permitted on appeal are prohibited. (1978 Code, § 11-304)

14-305. Lot area, lot width, and building area. The principal structure or structures shall be located to comply with the following requirements:

(1) Lot area, lot width, rear and side yards.

(a) For uses not served by sanitary sewers:

Minimum lot area for dwelling..... 30,000 sq. ft.
 Minimum lot width at building line
 for residences..... 100 ft.
 Minimum rear yard..... 40 ft.
 Minimum side yard..... 25 ft.
 Minimum lot width of building line on
 cul-de-sac lots. 80 ft.

(b) For uses served by sanitary sewers:

Minimum lot area for dwellings..... 20,000 sq. ft.
 Minimum lot width at building line:
 For residences..... 100 ft.
 For institutional uses..... 250 ft.
 For other permitted uses. 200 ft.
 Minimum rear yard..... 30 ft.
 Minimum side yard:
 For one- and two-story buildings..... 15 ft.
 For three-story buildings..... 20 ft.
 For streetside portions of corner lots..... 40 ft.

(2) Front yards. All principal and accessory structures shall be set back from the right-of-way lines of streets the minimum distance shown below, according to their classifications as indicated on the latest official municipal regional thoroughfare plan:

Arterial streets..... 50 ft.
 Collector streets. 40 ft.
 Minor streets..... 40 ft.

(3) Building area. On any lot or tract, the area occupied by all structures, including accessory structures, shall not exceed forty percent (40%) of the total area. Accessory structures shall not cover more than twenty percent (20%) of any rear yard. (1978 Code, § 11-305)

14-306. Height of buildings. Principal structures shall not exceed three (3) stories nor thirty-five feet (35') in height, except for churches which must increase each side yard width over the required minimum by five feet (5') for every five feet (5') or fraction thereof of additional height. No accessory structure shall exceed two (2) stories in height. (1978 Code, § 11-306)

14-307. Location of accessory structures. (1) No accessory structure shall be erected or located in any required front or side yards.

(2) Accessory structures shall be located at least five feet (5') from all lot lines and from any building on the same lot. (1978 Code, § 11-307)

CHAPTER 4

R-2 GENERAL RESIDENTIAL DISTRICTS **(MEDIUM AND HIGH DENSITY)**

SECTION

14-401. Intent.

14-402. Uses permitted.

14-403. Uses permitted on appeal.

14-404. Uses prohibited.

14-405. Lot area, lot width, and building area.

14-401. Intent. It is the intention of this chapter to provide a medium density residential environment having good access to schools, public water, sewerage, and other community services, but well separated from heavy traffic and other incompatible activities.

Within R-2 General Residential Districts as shown on the Westmoreland Zoning Map, the regulations of this chapter shall apply. (1978 Code, § 11-401)

14-402. Uses permitted. The following uses are permitted:

(1) Single and duplex family dwellings, and required accessory structures;

(2) Public elementary and high schools and private elementary and high schools with conventional academic curriculums similar to those in public elementary and high schools;

(3) The taking of boarders or the renting or leasing of rooms by the family resident on the premises; provided, that not over twenty-five percent (25%) of the total floor area is used for such purposes;

(4) Public and private parks, playgrounds, and play-fields, country clubs and neighborhood and municipal buildings and uses in keeping with the character and requirements of the district;

(5) Customary home occupations conducted within the principal structure, but only by a person resident of the premises, provided, that not more than one (1) person, not a resident of the premises is employed;

(6) One (1) unilluminated temporary on-site sign not exceeding one hundred (100) square feet in area, with no dimension exceeding twelve feet (12'), at each major approach to a subdivision advertising the sale of houses or lots;

(7) One (1) unilluminated temporary on-site sign not exceeding sixteen (16) square feet in area, advertising the sale of farm or garden products for the duration of the harvest season;

(8) Farming uses;

(9) Accessory uses or structures customarily incidental to the above permitted uses;

(10) Group housing developments in accordance with provisions set forth in chapter 6 of this title. (1978 Code, § 11-402)

14-403. Uses permitted on appeal. Churches and other places of worship, schools offering general education courses; railroad rights-of-way; municipal, county, state, or federal uses except storage facilities; public utilities, except storage facilities; cemeteries; philanthropic institutions and clubs, except clubs the chief activities of which are customarily carried on as business; and any other similar uses or structures may be permitted on appeal subject to such conditions as the Westmoreland Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located. (1978 Code, § 11-403)

14-404. Uses prohibited. Billboards and similar commercial advertising structures, mobile homes, and uses not specifically permitted on appeal are prohibited. (1978 Code, § 11-404)

14-405. Lot area, lot width, and building area. The principal structure or structures shall be located to comply with the following requirements:

- (1) For uses served by sanitary sewers in medium density districts:
 Minimum lot area for dwelling. 20,000 sq. ft.
 Minimum lot width at building line for residences. 100 ft.
- (2) For uses served by sanitary sewers in high density districts:
 Minimum lot area for dwelling. 15,000 sq. ft.
 Minimum lot width at building line:
 For residences. 100 ft.
 For institutional uses. 250 ft.
 For other permitted uses. 125 ft.
 Minimum rear yard. 30 ft.
 Minimum side yard:
 For one- or two-story buildings. 20 ft.
 For three-story buildings. 20 ft.
 For street side portions of corner lots
 minimum plus fifty percent (50%).
 Minimum building setback in both districts shall be fifty feet (50').

(1978 Code, § 11-405)

CHAPTER 5

R-3 MOBILE HOME PARKS

SECTION

14-501. Intent.

14-502. Uses permitted.

14-503. Uses permitted on appeal.

14-504. Uses prohibited.

14-501. Intent. It is the intention of this chapter to provide a high density residential environment having good access to schools, public water, sewerage, and other community services, but well separated from heavy traffic and other incompatible activities.

Within R-3 General Residential Districts as shown on the Westmoreland Zoning Map, the regulations of this chapter shall apply. (1978 Code, § 11-501)

14-502. Uses permitted. The following uses are permitted:

- (1) Mobile home parks in accordance with chapter 6 of this title;
- (2) Public and private parks, playgrounds, and play-fields;
- (3) Customary home occupations conducted within the principal structure, but only by a person resident of the premises; provided, that not more than one (1) person not a resident of the premises is employed. (1978 Code, § 11-502)

14-503. Uses permitted on appeal. Churches and other places of worship, schools offering general education courses; railroad rights-of-way; municipal, county, state, or federal uses except storage facilities; public utilities, except storage facilities; cemeteries; philanthropic institutions and clubs, except clubs the chief activities of which are customarily carried on as business; and any other similar uses or structures may be permitted on appeal subject to such conditions as the Westmoreland Board of Zoning Appeals may require in order to preserve and protect the character of the district in which the proposed use is located. (1978 Code, § 11-503)

14-504. Uses prohibited. Billboard and similar commercial advertising structures and uses not specifically permitted or permitted on appeal are prohibited. (1978 Code, § 11-504)

CHAPTER 6

GROUP HOUSING DEVELOPMENTS AND MOBILE HOME PARKS

SECTION

- 14-601. Intent.
- 14-602. Permit; procedure for approval.
- 14-603. Information required.
- 14-604. Review procedure--preliminary review.
- 14-605. Review procedure--final review.
- 14-606. Required development standards.
- 14-607. Required improvements.

14-601. Intent. This chapter is intended to provide a maximum flexibility in design and to ensure a minimum standard of site development for group housing, mobile home parks, or other projects involving the location of two (2) or more residential structures on a single lot or tract of land, not subdivided.

Mobile home parks involving more than three (3) dwellings per acre are a medium to high density residential use much like apartments, and require public sanitary sewerage. It is intended that mobile home parks be located so as to have direct access to major streets and to convenient commercial facilities. (1978 Code, § 11-601)

14-602. Permit; procedure for approval. A permit for a group housing development or mobile home park shall be issued by the city building inspector only as authorized by the Westmoreland Board of Zoning Appeals. The board shall so authorize said permit only after application and review in accordance with the requirements of this chapter, and after the board determines that the proposed location meets the intent of chapters 2 through 17 of this title and that the indicated development standards in §§ 14-606 and 14-607 will be followed. (1978 Code, § 11-602)

14-603. Information required. The following information shall be required before a permit is issued:

(1) General location sketch map at a scale not smaller than one inch equals one thousand feet (1" = 1000'), showing:

- (a) The approximate boundaries of the site;
- (b) External public access streets or roads in relation to the site;
- (c) Surrounding development (i.e., general residential, commercial, and industrial areas) within one (1) mile of site;
- (d) Any public water and sewer systems in relation to site.

(2) Site plan drawn to a scale no smaller than one inch equals one hundred feet (1" = 100'), showing:

- (a) Topographic contours at five foot (5') intervals, and drainage ways;
- (b) The location and dimensions of proposed internal streets, structures, mobile home spaces, and off-street parking spaces;
- (c) Points of access to public streets;
- (d) The location and size of available water and sewer lines;
- (e) The location and dimensions of any easements. (1978 Code, § 11-603)

14-604. Review procedure--preliminary review. Three (3) copies of the proposal containing the information required above shall be submitted to the Westmoreland Board of Zoning Appeals at least ten (10) days in advance, for preliminary review. The board may refer the proposal to the Westmoreland Planning Commission for its review and recommendation. Note: The site plan may be submitted at a later date up to one (1) year after the location has been given preliminary approval. (1978 Code, § 11-604)

14-605. Review procedure--final review. After preliminary approval of the complete proposal (§ 14-604), the board shall schedule a final review at public hearing. Public notice of the hearing shall be published in a newspaper of general circulation in Westmoreland at least ten (10) days in advance of hearing date. (1978 Code, § 11-605)

14-606. Required development standards. The following development standards shall apply:

- (1) Location. (a) The site shall be comprised of a single lot or tract of land, except where divided by public streets.
 - (b) The site shall abut a public street.
 - (c) Permanent residential structures, other than mobile homes, shall not be located within a site to be developed as a mobile park.
- (2) Dimensions. (a) The minimum front yard depth on a public street shall be twenty-seven feet (27') for mobile homes not wider than twelve feet (12') or longer than sixty feet (60').
 - (b) The minimum yards adjoining another zoning district shall be twenty-five feet (25').
- (3) Internal streets. (a) The minimum right-of-way width of collector streets exceeding five hundred feet (500') in length, or serving more than fifty (50) dwelling units, shall be fifty feet (50').
 - (b) The minimum right-of-way width of minor streets shall be thirty feet (30').
 - (c) The maximum grade on any street shall be ten percent (10%).

(d) Where feasible, all street intersections shall be at right angles.

(4) Public street access. (a) The minimum distance between access points along public street frontage, center line to center line, shall be two hundred feet (200').

(b) The minimum distance between the center line of an access point and the nearest curb line or street line of a public street intersection shall be one hundred feet (100').

(c) Corner lots shall be fifty percent (50%) wider than other lots.

(5) Mobile home spacing. (a) The minimum length of each mobile home space shall be one hundred feet (100').

(b) The minimum width of each mobile home space shall be fifty feet (50').

(c) The minimum width for double wide mobile homes shall be seventy feet (70').

(d) The minimum depth of yards on a mobile home space shall be ten feet (10'). (1978 Code, § 11-606)

14-607. Required improvements. The following improvements shall be required:

(1) Internal streets. (a) Streets shall be privately constructed and maintained.

(b) The base of streets shall consist of crushed stone or gravel, eight inches (8") in depth, compacted.

(c) The surface of streets shall consist of asphalt or better materials, two inches (2") in depth, compacted.

(d) The minimum pavement width of collector streets shall be twenty-four feet (24').

(e) The minimum pavement width of minor streets shall be twenty feet (20').

(f) Closed ends of dead-end streets shall provide a vehicular turn-around at least eighty feet (80') in diameter.

(g) Off-street parking bays shall be provided for all mobile home lots.

(2) Mobile home stands. (a) Mobile home stands shall be of gravel or concrete and shall have sufficient area to accommodate appurtenances such as canopies, patios, and porches.

(b) Anchors and underpinning shall be required as specified by the Civil Defense Preparedness Agency in Technical Memorandum 73-1, February 1973, or as later amended.

(3) Utilities. The development shall be serviced with public or package sanitary sewerage and public water on trunk lines not less than eight inches (8") and six inches (6"), respectively. Septic sewage disposal shall be permitted only on mobile home spaces of forty thousand (40,000) square feet or more except

present mobile home parks, which may be permitted to operate as is provided they meet current county and city health standards. Such permission past the eighteen (18) months deadline will be granted for twelve (12) months subject to review.

(4) Storage of waste. Any central refuse disposal area shall be maintained in such manner as to meet county and city health requirements and shall be screened from view.

(5) Service buildings. (a) Service buildings housing laundry, sanitation, or other facilities for use by occupants shall be permanent structures complying with all applicable codes.

(b) There shall be at least fifty feet (50') separating permanent buildings on the site from any mobile home space.

(6) Screens along major streets. The planning commission may require a screen of trees or aesthetic fencing along certain major streets.

(7) Recreation area. A recreation area consisting of a minimum of twenty-five thousand (25,000) square feet of outdoor space shall be dedicated in all mobile home parks. (1978 Code, § 11-607)

CHAPTER 7

C-1 DISTRICTS (LOCAL CONVENIENCE SHOPPING AND COMMERCIAL OFFICE USES)

SECTION

- 14-701. Intent.
- 14-702. Uses and structures permitted.
- 14-703. Prohibited uses and structures.
- 14-704. Required lot area, lot widths, and yards.
- 14-705. Required setback.
- 14-706. Height of buildings.
- 14-707. Off-street parking.
- 14-708. Access control.
- 14-709. Landscaping and screening.
- 14-710. Approval of planning commission.
- 14-711. Limitations on advertising uses.

14-701. Intent. It is the intention of this chapter to provide for appropriate local convenience shopping and commercial office type uses in areas appropriate for serving the public and to establish standards for off-street parking, safety, and aesthetics. It is recognized that these uses generate less traffic than some commercial uses and are more compatible to adjacent residential uses. Within the C-1 Commercial District, as shown on the Westmoreland Zoning Map, the regulations of this chapter shall apply. (1978 Code, § 11-701)

14-702. Uses and structures permitted. Real estate offices, insurance sale offices, banks, professional offices, florist shops, beauty parlors, and any similar use which, in the opinion of the board of zoning appeals, is in keeping with the character of the district, and any accessory use or building customarily incidental to the above permitted uses are permitted. (1978 Code, § 11-702)

14-703. Prohibited uses and structures. Any use or structure not specifically permitted or permitted on appeal is prohibited. (1978 Code, § 11-703)

14-704. Required lot area, lot widths, and yards. (1) The minimum lot area shall be ten thousand (10,000) square feet.

(2) The minimum depth of front yards measured from the right-of-way line shall be thirty feet (30').

(3) The minimum rear yard shall be twenty feet (20').

(4) The minimum width of each side yard shall be twenty feet (20').

(5) The minimum width of each side yard shall be fifteen feet (15'); provided, however, that any side yard that abuts a street or public way shall be twenty feet (20').

(6) The maximum building area shall be sixty percent (60%) of total lot area. (1978 Code, § 11-704)

14-705. Required setback. Every building or its accessory building shall be set back from the right-of-way line at least thirty feet (30'). (1978 Code, § 11-705)

14-706. Height of buildings. No building shall exceed three (3) stories or thirty-five feet (35') in height. (1978 Code, § 11-706)

14-707. Off-street parking. Off-street automobile storage or parking space shall be provided on each lot on which any of the permitted uses are established. Such space shall be provided with vehicular access to a street and shall be equal at least to the minimum requirements for specific uses as set forth below. One (1) passenger vehicle space shall be two hundred (200) square feet in area.

(1) Real estate office. No less than two (2) parking spaces for each office or employee in the office, whichever is greater.

(2) Insurance office. Same as for real estate offices.

(3) Professional offices. No less than five (5) spaces for each physician practicing on the premises and not less than four (4) spaces for each attorney employed on the premises.

(4) Other uses. As may be required by the planning commission. (1978 Code, § 11-707)

14-708. Access control. (1) Access barrier. Access to the highway shall be controlled in the interest of public safety. Each building or group of buildings used for commercial purposes, and its parking or service areas, shall be physically separated from the highway or street by a curb, planting strip or other suitable barrier against unchanneled motor vehicle ingress and egress, except for access ways as authorized in subsection (2) below.

(2) Accessways. Each separate use, grouping of attached buildings or groupings of uses permitted as part of a single integrated plan, shall have not more than two (2) accessways to any highway or street. Insofar as practicable, the use of common accessways by two (2) or more permitted uses shall be provided in order to reduce the number and closeness of access points along the highway, and to encourage the fronting of commercial structures upon a marginal street and not directly upon a public highway.

(3) Access regulations. The following regulations concerning accessways shall apply:

(a) A point of access shall be no closer than fifty feet (50') to any point of controlled access, provided however, that in a case of hardship caused by the narrowness or shape of any particular lot, the board of zoning appeals may issue a variance when such hardship is proved, nor within thirty feet (30') of the curb line of any public street intersection.

(b) A point of access shall not exceed thirty-five feet (35') in width.

(c) The distance between any two (2) points of access shall be no less than twenty-five feet (25'). (1978 Code, § 11-708)

14-709. Landscaping and screening. (1) Each site shall be developed with at least ten percent (10%) of its area landscaped with green treatment.

(2) For a lot whose property line abuts a residential district, an appropriate screening device or divider shall be maintained on such property line.

(3) Signs painted on or attached to fence posts, trees, rocks, canopy posts, utility poles, or light poles.

(4) No signs may be placed within twenty-five feet (25') of the highway right-of-way or within forty feet (40') of the paved edge or shoulder of the highway whichever is greater. (1978 Code, § 11-709)

14-710. Approval of planning commission. Within this district, prior to the issuance of a building permit for the construction of any building or structure, the plans for such construction shall be submitted to the planning commission for approval or disapproval. Such plans shall show proposed site development and a workable plan relative to openings and loading space. (1978 Code, § 11-710)

14-711. Limitations on advertising uses. All signs not related to the identification of the premises and occupants and/or to products sold or services rendered on the premises are prohibited. (1978 Code, § 11-711)

CHAPTER 8

C-2 COMMERCIAL DISTRICTS (CENTRAL SHOPPING AREAS)

SECTION

- 14-801. Intent.
- 14-802. Uses permitted.
- 14-803. Uses prohibited.
- 14-804. Lot area.
- 14-805. Yards.
- 14-806. Building area.
- 14-807. Height of buildings.
- 14-808. Limitations on signs and advertising uses.
- 14-809. Apron parking prohibited.

14-801. Intent. It is the intention of this chapter to encourage appropriate retail and service areas in this district capable of offering convenient, pleasant and safe facilities to the general public of Westmoreland and surrounding areas.

Within the C-2 Commercial District(s), as shown on the Westmoreland Zoning Map, the regulations in this chapter shall apply. (1978 Code, § 11-801)

14-802. Uses permitted. The following uses are permitted:

- (1) Retail and service uses such as convenience goods, general merchandise, and apparel stores; business and personal service establishments, hardware stores, commercial entertainment and recreation uses; public and semi-public uses; and similar uses;
- (2) Printing and publishing establishments;
- (3) Accessory uses or structures customarily incidental to the above permitted uses;
- (4) Other uses which in the opinion of the planning commission are compatible with the intent and purposes of chapters 2 through 17 of this title. (1978 Code, § 11-802)

14-803. Uses prohibited. The following uses are prohibited:

- (1) Industrial uses; junk yards; warehouses;
- (2) Gasoline, oil, alcohol, or other inflammable materials stored above ground in excess of five hundred (500) gallons;
- (3) Any use not specifically permitted or permitted on appeal. (1978 Code, § 11-803)

14-804. Lot area. The minimum lot area shall be ten thousand (10,000) square feet. (1978 Code, § 11-804)

14-805. Yards. (1) Lots shall be considered fronting on either arterial or collector streets. All principal and accessory structures shall be set back from the right-of-way lines of streets the maximum distance shown below:

Arterial streets. 50 ft.

Collector streets. 25 ft.

(2) On corner lots, all principal and accessory structures shall conform to the setback requirements for the adjoining street with the highest classification;

(3) The minimum yards adjoining a residential district shall conform to the respective yard requirements for the residential district, and be landscaped as in § 14-910. (1978 Code, § 11-805)

14-806. Building area. Maximum building area shall be fifty percent (50%) of the total lot area. (1978 Code, § 11-806)

14-807. Height of buildings. Buildings shall not exceed three (3) stories nor thirty-five feet (35') in height. (1978 Code, § 11-807)

14-808. Limitations on signs and advertising uses. All signs not relating to the identification of the premises and occupations and/or products sold or services rendered on the premises are prohibited. (1978 Code, § 11-808)

14-809. Apron parking prohibited. No parking arrangement shall be designed or developed which permits or encourages apron parking or unrestricted access to a street bordering a commercial use. All parking areas shall be channeled and marked so as to encourage safe vehicular movement. (1978 Code, § 11-809)

CHAPTER 9

C-3 DISTRICTS (INTERCHANGE AND HIGHWAY COMMERCIAL)

SECTION

- 14-901. Intent.
- 14-902. Uses and structures permitted.
- 14-903. Prohibited uses and structures.
- 14-904. Required lot area, lot widths, and yards.
- 14-905. Required setback.
- 14-906. Height of buildings.
- 14-907. Off-street parking.
- 14-908. Off-street loading and unloading space.
- 14-909. Access control.
- 14-910. Landscaping and screening.
- 14-911. Approval of planning commission.
- 14-912. Limitations on advertising uses.

14-901. Intent. It is the intention of this chapter to provide for necessary and desirable commercial uses in areas appropriate for serving the motoring public and to establish minimum standards for safety and aesthetics.

Within the C-3 Commercial District, as shown on the Westmoreland Zoning Map, the regulations of this chapter shall apply. (1978 Code, § 11-901)

14-902. Uses and structures permitted. The following uses and structures are permitted:

(1) Gasoline and service stations, and travel trailer parks, drug stores, curio shops, motels or motor hotels, grocery stores, restaurants, drive-in restaurants, and eating places, and any similar use which, in the opinion of the board of zoning appeals, is in keeping with the character of the district.

(2) Any accessory use or building customarily incidental to the above mentioned permitted uses. (1978 Code, § 11-902)

14-903. Prohibited uses and structures. Any use or structure not specifically permitted or permitted on appeal is prohibited. (1978 Code, § 11-903)

14-904. Required lot area, lot widths, and yards. (1) The minimum lot area shall be fifteen thousand (15,000) square feet.

(2) The minimum lot width at the building line shall be one hundred fifty feet (150').

(3) The minimum depth of front yards measured from the right-of-way line shall be fifty feet (50').

(4) The minimum rear yard shall be twenty feet (20').

(5) The minimum width of each side yard shall be twenty feet (20').

(6) The minimum width of each side yard shall be twenty feet (20'); provided, however, that any side yard that abuts a street or public way shall be forty feet (40').

(7) The maximum building area shall be forty percent (40%) of the total lot area. (1978 Code, § 11-904)

14-905. Required setback. Every building or structure or its accessory building shall be set back from the right-of-way line at least forty feet (40'). (1978 Code, § 11-905)

14-906. Height of buildings. No building shall exceed three (3) stories or forty feet (40'). (1978 Code, § 11-906)

14-907. Off-street parking. Off-street automobile storage or parking space shall be provided on each lot on which any of the permitted uses are established; such space shall be provided with vehicular access to a street or alley and shall be equal at least to the minimum requirements for specific uses as set forth below. One (1) passenger vehicle space shall be two hundred (200) square feet in area.

(1) Tourist accommodation. Not less than one (1) space for each room offered for tourist accommodation.

(2) Gasoline service station. Five (5) spaces for each grease rack or similar facility, plus two (2) spaces for each gas pump.

(3) Other business building or use. Not less than one (1) square foot of lot covered by buildings or structures. (1978 Code, § 11-907)

14-908. Off-street loading and unloading space. Behind every building or structure used for business or trade there shall be a rear yard not less than twenty feet (20') in depth to provide for the loading and unloading of vehicles. (1978 Code, § 11-908)

14-909. Access control. (1) Access barrier. Access to the highway shall be controlled in the interest of public safety. Each building or group of buildings used for commercial purposes, and its parking or service areas, shall be physically separated from the highway or street by a curb, planting strip or other suitable barrier against unchanneled motor vehicle ingress and egress, except for access ways as authorized in subsection (2) below.

(2) Accessways. Each separate use, grouping of attached buildings or grouping of uses permitted as part of a single integrated plan, shall have not more than two (2) accessways to any highway or street. Insofar as practicable, the use of common accessways by two (2) or more permitted uses shall be provided in order to reduce the number and closeness of access points along the

highway, and to encourage the fronting of commercial structures upon a marginal street and not directly upon a public highway.

(3) Access regulations. The following regulations concerning accessways shall apply:

(a) A point of access shall be no closer than fifty feet (50') to any point of controlled access, provided however, that in a case of hardship caused by the narrowness or shape of any particular lot, the board of zoning appeals may issue a variance when such hardship is proved, nor within thirty feet (30') of the curb line of any public street intersection.

(b) A point of access shall not exceed thirty-five feet (35') in width.

(c) The distance between any two (2) points of access shall be no less than twenty-five feet (25'). (1978 Code, § 11-909)

14-910. Landscaping and screening. (1) Each site shall be developed with at least ten percent (10%) of its area landscaped with green treatment.

(2) For a lot whose property line abuts a residential district, an appropriate screening device or divider shall be maintained on such property line.

(3) Signs painted on or attached to fence posts, trees, rocks, canopy posts, utility poles, or light poles.

(4) No signs may be placed within twenty-five feet (25') of the highway right-of-way or within forty feet (40') of the paved edge or shoulder of the highway whichever is greater. (1978 Code, § 11-910)

14-911. Approval of planning commission. Within this district, prior to the issuance of a building permit for the construction of any building or structure, the plans for such construction shall be submitted to the planning commission for approval or disapproval. Such plans shall show proposed site development and a workable plan relative to openings for ingress and egress, maneuvering, parking and loading space. (1978 Code, § 11-911)

14-912. Limitations on advertising uses. All signs not related to the identification of the premises and occupants and/or to products sold or services rendered on the premises are prohibited. (1978 Code, § 11-912)

CHAPTER 10

INDUSTRIAL DISTRICTS

SECTION

- 14-1001. Intent.
- 14-1002. Uses permitted.
- 14-1003. Uses prohibited.
- 14-1004. Yards.
- 14-1005. Limitations on signs and advertising uses.

14-1001. Intent. It is the intention of this chapter to provide for industrial uses which are compatible with nearby properties in agricultural, residential, or commercial use. Secondly, it is the intent to protect industrial land from encroachment by other land uses.

Within Industrial Districts, as shown on the Westmoreland Zoning Map, the regulations of this chapter shall apply. (1978 Code, § 11-1001)

14-1002. Uses permitted. The following uses are permitted:

- (1) Industrial uses such as the manufacture of textiles and apparel; fabrication and assembly of machinery and other products of metal, wood, or other materials; and similar uses; provided they are a type considered neither unsafe nor objectionable by reason of odor, dust, fumes, smoke, noise, vibration, refuse matter, or water-carried waste;
- (2) Wholesaling and storage uses, trucks terminals, and public uses necessary to serve the area;
- (3) Accessory uses or structures customarily incidental to the above permitted uses. (1978 Code, § 11-1002)

14-1003. Uses prohibited. Scrap processing and junk yards, automobile graveyards, tanneries, plants manufacturing or combining chemicals, plants manufacturing paper or creating or using radioactive materials and any other uses not permitted or permitted by implication are prohibited. Residential uses except as are necessary for security personnel are also prohibited. (1978 Code, § 11-1003)

14-1004. Yards. (1) Lots shall be considered fronting on either arterial or collector streets. All principal and accessory structures shall be set back from the right-of-way lines of streets the maximum distance shown below, according to their classification as indicated on the latest official municipal-regional thoroughfare plan:

- Arterial streets. 50 ft.
- Collector streets. 25 ft.

(2) On corner lots, all principal and accessory structures shall conform to the setback requirements for the adjoining street with the highest classification.

(3) The minimum side yards and rear yards shall be twenty feet (20') and twenty-five feet (25'), respectively.

(4) The minimum yards adjoining nonindustrial districts shall be thirty-five feet (35').

(5) No yard shall be required for that portion of a lot which fronts on or abuts a railroad right-of-way. (1978 Code, § 11-1004)

14-1005. Limitations on signs and advertising uses. All signs not relating to the identification of the premises and occupants and/or to products sold or services rendered on the premises are prohibited. (1978 Code, § 11-1005)

CHAPTER 11

AGRICULTURAL DISTRICTS

SECTION

14-1101. Intent.

14-1102. Uses permitted.

14-1103. Front yards.

14-1101. Intent. It is the intention of this chapter to protect lands suited to agricultural uses, and to provide for an adequate standard of non-agricultural development along thoroughfares outside urban areas.

Within Agricultural Districts, as shown on the Westmoreland Zoning Map, the regulations of this chapter shall apply. (1978 Code, § 11-1101)

14-1102. Uses permitted. The following uses are permitted:

(1) Agricultural uses and structures;
 (2) Uses or structures specifically permitted, or permitted on appeal in Residential Districts;

(3) Accessory uses or structures customarily incidental to above permitted uses. (1978 Code, § 11-1102)

14-1103. Front yards. All principal and accessory structures shall be set back from the right-of-way lines of streets the minimum distance shown below, according to their classifications as indicated on the latest official municipal thoroughfare plan:

Arterial streets.	50 ft.
Collector streets.	25 ft.
Minor streets.	25 ft.

(1978 Code, § 11-1103)

CHAPTER 12

FLOOD WAY DISTRICTS

SECTION

14-1201. Regulations of chapter to apply.

14-1202. Uses permitted.

14-1203. Uses prohibited.

14-1201. Regulations of chapter to apply. Within Flood Way Districts, as shown on the Westmoreland Zoning Map, the regulations of this chapter apply. (1978 Code, § 11-1201)

14-1202. Uses permitted. The following uses are permitted:

(1) Open uses (not involving permanent structures as the principal use of the land) such as agriculture, recreational, and storage of agricultural products;

(2) Transient uses, such as circuses and carnivals outside the floodplain;

(3) Accessory uses or structures customarily incidental to the above uses or incidental to uses permitted in adjoining districts;

(4) The above permitted uses and accessory structures shall be subject to the applicant's acceptance of the following conditions:

(a) Materials, equipment, and structures shall be firmly stationed or non-floatable, and shall not be subject to damage by floodwater.

(b) There shall be no filling of land, and appurtenances and structures shall not restrict the passage of floodwater.

(c) The City of Westmoreland and its officers or employees shall not be liable for any damage or loss caused by allowing the above permitted uses and structures. (1978 Code, § 11-1202)

14-1203. Uses prohibited. Residential uses, commercial uses, junk yards, sanitary landfills, automobile graveyards and absorption field tile shall be prohibited. (1978 Code, § 11-1203)

CHAPTER 13

EXCEPTIONS AND MODIFICATIONS

SECTION

- 14-1301. Lot of record.
- 14-1302. Front yards.
- 14-1303. Adjoining substandard lots of record.
- 14-1304. Exception of height limits.
- 14-1305. Agricultural use of land.

14-1301. Lot of record. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of the provisions of chapters 2 through 17 of this title does not own sufficient land to enable him to conform to the yard or other requirements of these chapters, an application may be submitted to the Westmoreland Board of Zoning Appeals for a variance from the terms of chapters 2 through 17 of this title. Such lot may be used as a building site; provided, however, that the yard and other requirements of the district are complied with as closely as in the opinion of the regional board of zoning appeals is possible.

No lot shall be so reduced in area that the yards and open spaces will be smaller than prescribed by chapters 2 through 17 of this title; and no yard, court, or open space provided around any building for the purpose of complying with these provisions shall again be considered as a yard, court or other open space for another building. (1978 Code, § 11-1301)

14-1302. Front yards. The front yard requirements of chapters 2 through 17 of this title for dwellings shall not apply to any lot where the average depth of existing front yards on developed lots located within two hundred feet (200') of each side of such lot and within the same block and zoning district and fronting on the same street as such lot is less than the minimum required front yard depth. In such case the minimum front yard shall be the average of the existing front yard depths on the developed lots. (1978 Code, § 11-1302)

14-1303. Adjoining substandard lots of record. Where two (2) or more substandard lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a large tract under the same ownership, such lots shall be combined to form one (1) or more building sites meeting the minimum requirements of the district in which they are located. (1978 Code, § 11-1303)

14-1304. Exception of height limits. The height limitations of chapters 2 through 17 of this title shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water

towers, observation towers, transmission towers, chimneys, silos, smokestacks, derricks, conveyors, flag poles, radio towers, masts, aerials, and the like. (1978 Code, § 11-1304)

14-1305. Agricultural use of land. Chapters 2 through 17 of this title shall not be construed as authorizing the requirement of building permit nor providing for any regulation of the erection, destruction, or the construction of any buildings or other structure on lands now devoted to agricultural purposes, except on agricultural areas adjacent or in proximity to state federal aid highways, public airports, or public parks; provided, however, such building or structure is incidental to the agricultural enterprise. Nor shall chapters 2 through 17 of this title be construed as limiting or affecting in any way or controlling the agricultural uses of land, except on these areas within and flood plan and/or the natural strip areas along streams. (1978 Code, § 11-1305)

CHAPTER 14

ENFORCEMENT

SECTION

- 14-1401. Enforcing officer.
- 14-1402. Building permit required.
- 14-1403. Issuance of a building permit.
- 14-1404. Issuance of certificate of occupancy.
- 14-1405. Records.

14-1401. Enforcing officer. The provisions of chapters 2 through 17 of this title shall be administered and enforced by a city building inspector appointed by the city council and he shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of chapters 2 through 17 of this title. (1978 Code, § 11-1401)

14-1402. Building permit required. It shall be unlawful to commence excavation for the construction of any building including accessory buildings or to commence the moving or alteration of any building including accessory buildings, or permanent signs, until the building inspector has issued a building permit for such work. When a permanent sign is to be erected and is not a part of the initial construction on sight, a separate building permit is required. (1978 Code, § 11-1402)

14-1403. Issuance of a building permit. In applying to the building inspector for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, and location of all buildings and/or signs to be erected, altered, or moved and of any buildings already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the building inspector for determining whether the provisions of chapter 2 through 17 of this title are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of chapters 2 through 17 of this title, the building inspector shall, after at least three (3) days, issue a building permit for such excavation and/or construction. If a building permit is refused, the building inspector shall state such refusal in writing with the cause.

The issuance of a building permit shall in no case be construed as waiving any provision of chapters 2 through 17 of this title.

A building permit shall become void twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein. (1978 Code, § 11-1403)

14-1404. Issuance of certificate of occupancy. No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the building inspector shall have issued a certificate of occupancy stating that such land, building, or part thereof, and the proposed use thereof are found to be in conformity with the provisions of chapters 2 through 17 of this title.

Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof are found to conform with the provisions of chapters 2 through 17 of this title; or, if such certificate is refused, the building inspector shall state refusal in writing with the cause. (1978 Code, § 11-1404)

14-1405. Records. A complete record of such applications, sketches, and plans shall be maintained in the office of the building inspector. (1978 Code, § 11-1405)

CHAPTER 15

BOARD OF ZONING APPEALS

SECTION

14-1501. Creation and appointment.

14-1502. Procedure.

14-1503. Appeals; how taken.

14-1504. Powers and duties.

14-1505. Remedies.

14-1501. Creation and appointment. A Westmoreland Board of Zoning Appeals (hereafter referred to as the board) is hereby established in accordance with Tennessee Code Annotated, §§ 13-7-205 through 13-7-207. The board of zoning appeals shall consist of the members of the Westmoreland Municipal Planning Commission. (1978 Code, § 11-1501)

14-1502. Procedure. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. All meetings of the board shall be open to the public. A quorum shall consist of five (5) board members.

The board shall keep minutes of its proceedings, showing the vote of each member upon each question. If a member is absent or fails to vote, the record shall so indicate. The minutes shall be immediately filed in the city hall and shall be a public record. (1978 Code, § 11-1502)

14-1503. Appeals; how taken. An appeal to the board may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, other board, or bureau effected by any decision of the building inspector based in whole or in part upon the provisions of the resolution. Such appeal shall be taken by filing with the board a notice of appeal, specifying the grounds thereof.

The building inspector shall transmit to the board all papers constituting the record upon which the action appealed was taken. The board shall fix a reasonable time for the hearing of the appeal and give proper notice of a public hearing before the board at least five (5) days prior to the date set for the public hearing. At the hearing, any person or party may appear and be heard in person, by agent, or by attorney. (1978 Code, § 11-1503)

14-1504. Powers and duties. The board shall have the following powers and duties:

(1) **Administrative review.** To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the municipal building inspector or any other

administrative official in the carrying out or enforcement of any provision of chapters 2 through 17 of this title; and to interpret the municipal zoning map and chapters 2 through 17 of this title.

(2) Special exceptions. To hear and decide, in accordance with the provisions of chapters 2 through 17 of this title, requests for special exceptions or for decisions upon other special questions upon which the board is authorized by this title to pass (i.e., uses permitted on appeal).

(3) Variances. To hear and decide upon applications for variances from the terms of chapters 2 through 17 of this title, but only where by reason of exceptional narrowness, shallowness, or shape of specific piece of property which at the time of adoption of the provisions of chapters 2 through 17 of this title was a lot of record, or where by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the provisions of chapters 2 through 17 of this title would result in peculiar and exceptional practical difficulties to or exception or undue hardship upon the owner of such property; provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purposes of chapters 2 through 17 of this title.

(a) In granting variances the board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or uses as it may deem advisable in the furtherance of the purposes of chapters 2 through 17 of this title.

(b) Before any variance is granted, it shall be shown that special circumstances attached to the property do not generally apply to other properties in the neighborhood. (1978 Code, § 11-1504)

14-1505. Remedies. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of chapters 2 through 17 of this title, the mayor or any other appropriate authority or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building, structure, or land. (1978 Code, § 11-1505)

CHAPTER 16

AMENDMENTS

SECTION

- 14-1601. Introduction of amendments.
- 14-1602. Review by the planning commission.
- 14-1603. Notice of public hearing.
- 14-1604. Fee.

14-1601. Introduction of amendments. The Westmoreland City Council may amend the regulations, restrictions, boundaries, or any provision of chapters 2 through 17 of this title. Any member of the city council may introduce such amendment, or any official, board, or any other person may present a petition to the city council requesting an amendment or amendments to chapters 2 through 17 of this title. (1978 Code, § 11-1601)

14-1602. Review by the planning commission. No amendment shall become effective unless it is first submitted for approval, disapproval, or suggestions to the planning commission. If the planning commission within sixty (60) days of such submission disapproves the amendment, it shall require the favorable vote of a majority of the entire membership of the city council to become effective. Failure of the planning commission to either approve or disapprove the amendment within sixty (60) days of its submission shall be deemed approval. (1978 Code, § 11-1602)

14-1603. Notice of public hearing. Before enacting any amendment to chapters 2 through 17 of this title, the city council shall publish a notice of such request for an amendment together with the notice of time set for a public hearing by the city council on the requested change. Said notice shall be published one (1) time in a newspaper of general circulation in Westmoreland, Tennessee. Said hearing by the city council shall take place not sooner than thirty (30) days after the publication of such notice.

At the time and place signified in the above notice, the city council shall meet; and all persons affected by such amendment or change may appear in person, by agent, or by attorney to petition against the making of such amendment. (1978 Code, § 11-1603)

14-1604. Fee. A fee of twenty-five dollars (\$25.00) due and payable at the time of filing of petition shall be posted with request to amend the city zoning ordinance; said fee to be used by the City of Westmoreland to defray costs resulting from such petition and any subsequent amendment of chapters 2 through 17 of this title. (1978 Code, § 11-1604)

CHAPTER 17

FLOODPLAIN DISTRICTS--FLOODPLAIN MANAGEMENT REGULATIONS

SECTION

- 14-1701. Statutory authorization, findings of fact, purpose and objectives.
- 14-1702. Definitions.
- 14-1703. General provisions.
- 14-1704. Administration.
- 14-1705. Provisions for flood hazard reduction.
- 14-1706. Variance procedures

14-1701. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, §§ 13-7-201 through 13-7-210 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(2) Findings of fact. (a) The Westmoreland City Council wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-04-04 edition).

(b) Areas of Westmoreland are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) These flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter is designed to:

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion, and;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this chapter are:

(a) To protect human life, health and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area and

(h) To maintain eligibility for participation in the National Flood Insurance Program. (Ord. #374, June 2006)

14-1702. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 USC 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "new construction."

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this chapter or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

(7) "Area of special flood hazard" is the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(9) "Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other

structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

(13) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(15) "Erosion" means the process of the gradual wearing away of land masses. This peril is not per se covered under the program.

(16) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(17) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(18) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP).

(19) "Existing structures" see "existing construction."

(20) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(21) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters;

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood

level that has a one percent (1%) or greater chance of occurrence in any given year.

(23) "Flood elevation study" an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(24) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been designated as Zone A.

(25) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by the Federal Emergency Management Agency, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(28) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

(29) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(30) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(31) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(32) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which

due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(33) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(34) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(36) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.

(37) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(38) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(39) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

- (i) By an approved state program as determined by the Secretary of the Interior, or
- (ii) Directly by the Secretary of the Interior.

(40) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(41) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(42) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(43) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

(44) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(45) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the agency.

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

(47) "National Geodetic Vertical Datum (NGVD)" as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "New construction" means any structure for which the "start of construction" commenced after the effective date of this chapter or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(49) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed after the effective date of the ordinance establishing this chapter or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

(50) "North American Vertical Datum (NAVD)" as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

(51) "100-year flood" see "base flood."

(52) "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

(53) "Recreational vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(54) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(55) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(56) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a

basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the national flood insurance program for the state.

(59) "Structure" for purposes of this section means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial improvement" means any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

- (a) The appraised value of the structure prior to the start of the initial repair or improvement; or
- (b) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or;

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(62) "Substantially improved existing manufactured home parks or subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(63) "Variance" is a grant of relief from the requirements of this chapter which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

(64) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #374, June 2006)

14-1703. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of Westmoreland, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Westmoreland, Tennessee, Federal Emergency Management Agency, Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 0200 and 0225, dated, September 20, 2006, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(5) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body, and;

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Westmoreland, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Westmoreland, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #374, June 2006)

14-1704. Administration. (1) Designation of chapter administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this chapter.

(2) Permit procedures. Application for a development permit shall be made to the building inspector on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage.

(i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations (BFEs) are available, or to the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where BFEs are available, or to the highest adjacent grade when applicable under this chapter.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the flood-proofing criteria in § 14-1704(2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A zones, where flood elevation data are not available, the building inspector shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the building inspector an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The building inspector shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the building inspector. Duties of the building inspector shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal

Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-1704(2).

(f) Record the actual elevation; in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been flood-proofed, in accordance with § 14-1704(2).

(g) When floodproofing is utilized for a structure, the building inspector shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-1704(2).

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building inspector shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the building inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this chapter.

Within unnumbered A zones, where base flood elevations have not been established and where alternative data is not available, the building inspector shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-1702 of this chapter). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1704(2).

(j) All records pertaining to the provisions of this chapter shall be maintained in the office of the building inspector and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #374, June 2006)

14-1705. Provisions for flood hazard reduction. (1) General standards. In all flood prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter; and

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this chapter, shall be undertaken only if said non-conformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to

elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-1705(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the building inspector shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-1702 of this chapter). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-1704(2).

Buildings located in all A Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the building inspector as set forth in § 14-1704(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finish grade; and

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such petitions shall comply with the provisions of § 14-1705(2) of this chapter.

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or

(B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has substantially improved, must meet the standards of § 14-1705(2)(d) of this chapter.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security

devices, and has no permanently attached structures or additions.

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(i) All subdivision proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-1703(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other developments within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development, when combined with all other existing and anticipated development, shall not result in any increase the water surface elevation of the base flood level, velocities or floodway widths during the occurrence of a base flood discharge at any point within the community. A registered professional engineer must provide supporting technical data and certification thereof.

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-1705.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-1703(2), where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with § 14-1705(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-1703(2), where streams exist, but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-1703, then the building inspector shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-1705. Only if data is not available from these sources, then the following provisions (b) and (c) shall apply:

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have

the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-1705(2), and "elevated buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-1703(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-1705(2), and "elevated buildings."

(b) All new construction and substantial improvements of non-residential buildings may be flood-proofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely flood-proofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed to at least three feet (3') above the highest adjacent grade. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the building inspector as set forth above and as required in § 14-1704(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The building inspector shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-1703 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been

determined. Within these areas (A-99 Zones) all provisions of § 14-1704 and § 14-1705(1) shall apply.

(8) Standards for unmapped streams. Located within Westmoreland, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-1704. (Ord. #374, June 2006)

14-1706. Variance procedures. The provisions of this section shall apply exclusively to areas of special flood hazard within Westmoreland, Tennessee.

(1) Board of zoning appeals. (a) The Westmoreland Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

(c) In passing upon such applications, the board of zoning appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(i) The danger that materials may be swept onto other property to the injury of others;

(ii) The danger to life and property due to flooding or erosion;

(iii) The susceptibility of the proposed facility and its contents to flood damage;

(iv) The importance of the services provided by the proposed facility to the community;

(v) The necessity of the facility to a waterfront location in the case of a functionally dependent facility;

(vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(vii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(viii) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(ix) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(x) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

(d) Upon consideration of the factors listed above, and the purpose of this chapter, the board of zoning appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of the chapter.

(e) Variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The building inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. #374, June 2006)

CHAPTER 18

MOBILE HOME STANDARDS

SECTION

14-1801. Application of chapter.

14-1802. Utilities.

14-1803. Setup criteria.

14-1804. Violations.

14-1801. Application of chapter. This chapter shall apply to mobile homes, manufactured homes, and modular homes. (Ord. #313, Aug. 1997)

14-1802. Utilities. Homes must be serviced with city utilities. (Ord. #313, Aug. 1997)

14-1803. Setup criteria. (1) Homes must have continuous underpinning so as to retard the passage of air under the structure in order to reduce fire hazard. Enclosure shall be accomplished within sixty (60) days from the date of the mobile home, manufactured home or modular home being pulled or set on the lot.

(2) Homes must meet all lot requirements of the applicable zoning district.

(3) Homes must be placed on a concrete foundation.

(4) Homes must have steps to each doorway and must provide deck area of four feet by four feet (4' x 4') for the front door and three feet by three feet (3' x 3') for all other doors.

(5) All steps and decks must provide handrails and guardrails a minimum of thirty-two inches (32") high.

(6) Step risers must be a maximum of eight inches (8") high and platforms must be at least nine inches (9") wide. (Ord. #313, Aug. 1997, as amended by Ord. #319, Jan. 1998)

14-1804. Violations. Violation of any provision of this chapter shall subject the owner/occupant of home to a fifty dollar (\$50.00) fine for each day of non-compliance. (Ord. #313, Aug. 1997)

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING¹****CHAPTER**

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. Careless driving.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.
- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Drivers to use vehicle's lights.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.

¹Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

- 15-122. Unlawful to stop, etc., vehicle on street crossings.
- 15-123. Bicycle riders, etc.
- 15-124. Heavy vehicles.
- 15-125. Compliance with financial responsibility law required.

15-101. Motor vehicle requirements. It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9. (1978 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1978 Code, § 9-106)

15-103. Careless driving. It shall be unlawful to operate a motor vehicle in a careless manner in which the safety of the occupants and others are in any manner endangered and in such a manner which would create a public disturbance or loud noise. (Ord. #142, Sept. 1979)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1978 Code, § 9-109)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. (1978 Code, § 9-110)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1978 Code, § 9-111)

15-107. Miscellaneous traffic-control signs, etc.¹ It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the City of Westmoreland unless otherwise directed by a police officer.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1978 Code, § 9-112)

15-108. General requirements for traffic-control signs, etc. All traffic control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,² published by the U.S. Department of Transportation, Federal Highway administration and shall, so far as practicable, be uniform as to type and location throughout the city. (1978 Code, § 113, modified)

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1978 Code, § 9-114)

15-110. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1978 Code, § 9-115)

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

²This document may be obtained at: mutcd.fhwa.dot.gov.

15-111. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1978 Code, § 9-116)

15-112. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1978 Code, § 9-117)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1978 Code, § 9-119)

15-114. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1978 Code, § 9-120)

15-115. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1978 Code, § 9-121)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1978 Code, § 9-122)

15-117. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" of the tires on any motor vehicle. (1978 Code, § 9-123)

15-118. Drivers to use vehicle's lights. The driver of a vehicle shall use the vehicle's lights any time the vehicle is being operated from one half (1/2) hour after sundown to one half (1/2) hour before sunrise. The vehicle's lights shall conform to the requirements set forth in Tennessee Code Annotated, title 55, chapter 9. (1978 Code, § 9-124)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1978 Code, § 9-125)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1978 Code, § 9-126)

15-121. Damaging pavements. No person shall operate or cause to be operated upon any street of the City of Westmoreland any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1978 Code, § 9-118)

15-122. Unlawful to stop, etc., vehicle on street crossings. It shall be unlawful to stop any motor vehicle or leave the same standing upon the crossings of the streets. (1978 Code, § 9-127)

15-123. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1978 Code, § 9-128)

15-124. Heavy vehicles. No vehicles having a gross weight of twenty-six thousand (26,000) pounds or having three (3) or more axles may enter upon any city street except for the purpose of loading or unloading. (Ord. #203, June 1987)

15-125. Compliance with financial responsibility law required.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision of title 15 of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106 the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued.

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50.00). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that such financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge which is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected. (Ord. #349, March 2002, modified)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1978 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1978 Code, § 9-103)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1978 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1978 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1978 Code, § 9-201)

15-302. At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1978 Code, § 9-202)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1978 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the City of Westmoreland. (1978 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS**SECTION**

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1978 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1978 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1978 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1978 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1978 Code, § 9-305)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At "stop" signs.
- 15-504. At "yield" signs.
- 15-505. At traffic-control signals.
- 15-506. At flashing traffic-control signals.
- 15-507. Stops to be signaled.

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1978 Code, § 9-402)

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1978 Code, § 9-403)

15-503. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1978 Code, § 9-404)

15-504. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1978 Code, § 9-405)

15-505. At traffic-control signals. It shall be unlawful for any person to fail to bring to a stop any motor vehicle being operated by him or her when the same approaches a traffic signal light over any street within the City of Westmoreland when said traffic light is emitting or showing the color red, and remain stopped until said traffic light changes to the color of white or green, upon any and all streets within the City of Westmoreland. (1978 Code, § 9-406)

15-506. At flashing traffic-control signals. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the City of Westmoreland it shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(2) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1978 Code, § 9-407)

15-507. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1978 Code, § 9-408)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Parking transient trailers and mobile homes downtown prohibited.
- 15-607. Presumption with respect to illegal parking.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within City of Westmoreland shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the municipality has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the city marshal.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1978 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the City of Westmoreland for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1978 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1978 Code, § 9-503)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or municipality, nor:

- (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within an intersection or within fifteen feet (15') thereof.
 - (4) Within fifteen feet (15') of a fire hydrant.
 - (5) Within a pedestrian crosswalk.
 - (6) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance.
 - (7) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed.
 - (8) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (9) Upon any bridge.
 - (10) Alongside any curb painted yellow or red by the municipality.
- (1978 Code, § 9-504)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the City of Westmoreland as a loading and unloading zone. (1978 Code, § 9-505)

15-606. Parking transient trailers and mobile homes downtown prohibited. It shall be unlawful to park transient trailers or mobile homes in the downtown area of the City of Westmoreland bounded as follows:

East of Park Street and Locust Street to North First Street. (Ord. #204, June 1987)

15-607. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (1978 Code, § 9-506)

CHAPTER 7

ENFORCEMENT

SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Violation and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1978 Code, § 9-601)

15-702. Failure to obey citation. It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued. (1978 Code, § 9-602)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1978 Code, § 9-603, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any

¹State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1978 Code, § 9-604)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated, §§ 55-16-103 through 55-16-109. (1978 Code, § 9-605)

15-706. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. For parking violations the offender may waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within ten (10) days and five dollars (\$5.00) thereafter. (1978 Code, § 9-603, modified)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.
3. PROPERTY NUMBERING.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades, etc., regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.

16-101. Obstructing streets, alleys, or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1978 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1978 Code, § 12-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

his property any tree, shrub, sign, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1978 Code, § 12-103)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1978 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the city council after a finding that no hazard will be created by such banner or sign. (1978 Code, § 12-105)

16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by statute. (1978 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1978 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1978 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow or ice from the abutting sidewalk. (1978 Code, § 12-109)

16-110. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first

¹Municipal code reference
Building code: title 12, chapter 1.

securing a permit from the recorder. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately. (1978 Code, § 12-110)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (1978 Code, § 12-111)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1978 Code, § 12-112)

CHAPTER 2

EXCAVATIONS AND CUTS

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Driveway curb cuts.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business, and said permit shall be retroactive to the date when the work was begun. (1978 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1978 Code, § 12-202)

16-203. Fee. The fee for such permits shall be two dollars (\$2.00) for excavations which do not exceed twenty-five (25) square feet in area or tunnels not exceeding twenty-five feet (25') in length; and twenty-five cents (\$0.25) for each additional square foot in the case of excavations, or lineal foot in the case

of tunnels; but not to exceed one hundred dollars (\$100.00) for any permit. (1978 Code, § 12-203)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of twenty-five dollars (\$25.00) if no pavement is involved or seventy-five dollars (\$75.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the City of Westmoreland of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the recorder a surety bond in such form and amount as the recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (1978 Code, § 12-204)

16-205. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1978 Code, § 12-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in the City of Westmoreland shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the municipality, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the City of Westmoreland will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the municipality, an accurate account of the expense involved shall be kept, and the

total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1978 Code, § 12-206)

16-207. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for bodily injury or death of any one (1) person in any one (1) accident, occurrence or act, and not less than seven hundred thousand dollars (\$700,000.00) for bodily injury or death of all persons in any one (1) accident, occurrence or act, and one hundred thousand dollars (\$100,000.00) for injury or destruction of property of others in any one (1) accident, occurrence, or act. (1978 Code, § 12-207, modified)

16-208. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the City of Westmoreland if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1978 Code, § 12-208)

16-209. Supervision. The recorder shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (1978 Code, § 12-209)

16-210. Driveway curb cuts. No one shall cut, build, or maintain a driveway across a curb or sidewalk without first obtaining a permit from the recorder. Such a permit will not be issued when the contemplated driveway is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic. No driveway shall exceed thirty-five feet (35') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in

width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1978 Code, § 12-210)

CHAPTER 3

PROPERTY NUMBERING

SECTION

16-301. On curbside mailboxes.

16-302. On buildings, signs, etc.

16-303. Properties with multiple occupancies.

16-304. Violations and penalty.

16-301. On curbside mailboxes. All improved properties or occupancies which utilize a curbside mailbox shall display their street number prominently on said mailbox in such a manner as to:

- (1) Be legible from the street on which the property is located;
- (2) Be of sufficient size so as to be seen easily from the street the address is on;
- (3) Be visible from both directions; and
- (4) Be set on a background of a contrasting color.

All one- and two-family dwellings shall display numbers a minimum of two inches (2") in height while all other properties/occupancies shall be a minimum of four inches (4") in height. (Ord. #243, May 1991)

16-302. On buildings, signs, etc. All improved properties or occupancies which do not utilize a curbside mailbox shall display their street number prominently on their building, property, sign, or similar location. All criteria concerning legibility, size and visibility contained in § 16-301 above shall apply. (Ord. #243, May 1991)

16-303. Properties with multiple occupancies. Improved properties with multiple occupancies such as office buildings, shopping centers, and apartment complexes shall display the development's street number or range of numbers prominently on their building, property, sign or similar location. These street numbers shall comply with the criteria for legibility, size and visibility as contained in § 16-301 above. (Ord. #243, May 1991)

16-304. Violations and penalty. All property owners or occupants notified in writing that they are in violation of this chapter shall have thirty (30) days to comply. Failure to comply shall result in being cited into city court, and subject to a fine not to exceed fifty dollars (\$50.00). Each month the violation continues is a separate offense and may be fined as such. (Ord. #243, May 1991)

TITLE 17**REFUSE AND TRASH DISPOSAL**¹**CHAPTER****1. REFUSE.****CHAPTER 1****REFUSE****SECTION**

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Burning garbage.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1978 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the City of Westmoreland are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1978 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the City of Westmoreland where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the municipality handles mechanically. Furthermore, except for

¹Municipal code reference

Property maintenance regulations: title 13.

containers which the municipality handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four feet (4') and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two feet (2') thick before being deposited for collection. (1978 Code, § 8-203)

17-104. Location of containers. Where alleys are used by the municipal refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the municipal refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the municipality for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1978 Code, § 8-204)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1978 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the city council shall designate. Collections shall be made regularly in accordance with an announced schedule. (1978 Code, § 8-206)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1978 Code, § 8-207)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the city council is expressly prohibited. (1978 Code, § 8-208)

17-109. Burning garbage. It is unlawful for any person to burn garbage within the city limits of Westmoreland. (Ord. #130, May 1979)

TITLE 18**WATER AND SEWERS¹****CHAPTER**

1. WATER AND SEWERS.
2. SUPPLEMENTARY SEWER REGULATIONS.
3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. CROSS CONNECTIONS, AUXILIARY INPUTS, ETC.
5. USER CHARGE SYSTEM.

CHAPTER 1**WATER AND SEWERS****SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Water and sewer main extensions.
- 18-108. Variances from and effect of preceding section as to extensions.
- 18-109. Meters.
- 18-110. Meter tests.
- 18-111. Schedule of rates.
- 18-112. Multiple services through a single meter.
- 18-113. Billing.
- 18-114. Discontinuance or refusal of service.
- 18-115. Re-connection charge.
- 18-116. Termination of service by customer.
- 18-117. Access to customers' premises.
- 18-118. Inspections.
- 18-119. Customer's responsibility for system's property.
- 18-120. Customer's responsibility for violations.
- 18-121. Supply and resale of water.
- 18-122. Unauthorized use of or interference with water supply.

¹Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.

- 18-123. Limited use of unmetered private fire line.
- 18-124. Damages to property due to water pressure.
- 18-125. Liability for cutoff failures.
- 18-126. Restricted use of water.
- 18-127. Interruption of service.
- 18-128. Private wells prohibited.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the City of Westmoreland and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1978 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the City of Westmoreland under either an express or implied contract.

(2) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(4) "Household" means any two (2) or more persons living together as a family group.

(5) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.

(6) "Service line" shall consist of the pipe line extending from any water or sewer main of the municipality to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the municipality's water main to and including the meter and meter box. (1978 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the City of Westmoreland before connection or meter installation orders will be issued and work performed. (1978 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the City of Westmoreland for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the City of Westmoreland to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the municipality to the applicant shall be limited to the return of any deposit made by such applicant. (1978 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1978 Code, § 13-105)

18-106. Connection charges. Service lines will be laid by the City of Westmoreland from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the municipality.

Before a new water or service line will be laid by the city, the applicant shall make a deposit equal to the estimated cost of the installation.

This deposit shall be used to pay the cost of laying such new service line and appurtenant equipment. If such cost exceeds the amount of the deposit, the applicant shall pay to the City of Westmoreland the amount of such excess cost when billed therefor. If such cost is less than the amount of the deposit, the amount by which the deposit exceeds such cost shall be refunded to the applicant.

When a service line is completed, the City of Westmoreland shall be responsible for the maintenance and upkeep such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the municipality. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer.

Water and sewer lines shall be installed by boring under the street. No cuts may be made in the streets. (1978 Code, § 13-106, as amended by Ord. #305, Oct. 1996)

18-107. Water and sewer main extensions. Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Water Works Association Standard (or other construction approved by the city council), not less than six inches (6") in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than one thousand feet (1,000') from the most distant part of any dwelling structure and no farther than six hundred feet (600') from the most distant part of any commercial, industrial,

or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe (or other construction approved by the city council) two inches (2") in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the city council shall be used.

All such extensions shall be installed either by municipal forces or by other forces working directly under the supervision of the municipality in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the City of Westmoreland, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the municipality to provide evidence of the municipality's title to such mains. In consideration of such mains being transferred to it, the City of Westmoreland shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains. (1978 Code, § 13-108)

18-108. Variances from and effect of preceding section as to extensions. Whenever the city council is of the opinion that it is to the best interest of the City of Westmoreland and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the municipality to make such extensions or to furnish service to any person or persons. (1978 Code, § 13-109)

18-109. Meters. All meters shall be installed, tested, repaired, and removed only by the City of Westmoreland.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the municipality. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1978 Code, § 13-110)

18-110. Meter tests. The City of Westmoreland will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be

considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

<u>Meter Size</u>	<u>Test Charge</u>
5/8", 3/4", 1"	\$ 2.00
1-1/2", 2"	5.00
3"	8.00
4"	12.00
6" and over	20.00

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the City of Westmoreland. (1978 Code, § 13-111)

18-111. Schedule of rates. All water and sewer service shall be furnished under such rate schedules as the municipality may from time to time adopt by appropriate ordinance or resolution.¹ (1978 Code, § 13-112)

18-112. Multiple services through a single meter. No customer shall supply water or sewer service to more than one (1) dwelling, premise or business from a single service line and meter without first obtaining the written permission of the City of Westmoreland.

Where the municipality allows more than one dwelling, premise, or business to be served through a single service line and meter, the amount of water used by all the dwellings, premises, and businesses served through a single service line and meter shall be allocated to each separate dwelling, premise, or business served. The water and/or sewer charges for each such

¹Administrative ordinances and resolutions are of record in the recorder's office.

dwelling, premise, or business thus served shall be computed just as if each such dwelling, premise, or business had received through a separately metered service the amount of water so allocated to it, such computation to be made at the municipality's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling, premise, or business served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1978 Code, § 13-113, as amended Ord. #279, July 1994)

18-113. Billing. Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the City of Westmoreland.

Both charges shall be collected as a unit; no municipal employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the discount date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid on or before twenty (20) days after the discount date. The City of Westmoreland shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the municipality if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the City of Westmoreland reserves the right to render an estimated bill based on the best information available. (1978 Code, § 13-114)

18-114. Discontinuance or refusal of service. The city shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations;
- (2) The customer's application for service;
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the municipality for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1978 Code, § 13-115)

18-115. Re-connection charge. Whenever service has been discontinued as provided for above, a re-connection charge of ten dollars (\$10.00) shall be collected by the municipality before service is restored. (1978 Code, § 13-116)

18-116. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the City of Westmoreland reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the City of Westmoreland shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the municipality should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the municipality to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1978 Code, § 13-117)

18-117. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customers' plumbing and premises generally in

order to secure compliance with these rules and regulations. (1978 Code, § 13-118)

18-118. Inspections. The City of Westmoreland shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the municipality.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made. (1978 Code, § 13-119)

18-119. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the City of Westmoreland shall be and remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of the municipality on his premises. In the event of loss or damage to such property arising from the neglect of a customer to properly care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1978 Code, § 13-120)

18-120. Customer's responsibility for violations. Where the City of Westmoreland furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1978 Code, § 13-121)

18-121. Supply and resale of water. All water shall be supplied within the City of Westmoreland exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the city. (1978 Code, § 13-122)

18-122. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the municipality. (1978 Code, § 13-123)

18-123. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire

hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the municipality.

All private fire hydrants shall be sealed by the municipality, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the municipality a written notice of such occurrence. (1978 Code, § 13-124)

18-124. Damages to property due to water pressure. The City of Westmoreland shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1978 Code, § 13-125)

18-125. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the municipality has failed to cut off such service.

(2) The municipality has attempted to cut off a service but such service has not been completely cut off.

(3) The municipality has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the municipality's main.

Except to the extent stated above, the City of Westmoreland shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the municipality's cutoff. Also, the customer (and not the municipality) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1978 Code, § 13-126)

18-126. Restricted use of water. In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1978 Code, § 13-127)

18-127. Interruption of service. The City of Westmoreland will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The City of Westmoreland shall not be liable for any damages for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the municipal water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The municipality shall not be liable for any damages from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1978 Code, § 13-128)

18-128. Private wells prohibited. Use of private wells in the city is prohibited. All water shall be supplied within the City of Westmoreland exclusively by the city. All water used by residences, business places, public institutions or for any commercial use must be city water. Wells currently in existence and in use are excepted from this prohibition, but when real property is sold which is presently utilizing a well as the water source, the property must be connected onto city water prior to the sale thereof. (Ord. #287, May 1995)

CHAPTER 2

SUPPLEMENTARY SEWER REGULATIONS

SECTION

- 18-201. Definitions.
- 18-202. Use of public sewers required.
- 18-203. Private sewage disposal.
- 18-204. Building sewers and connections.
- 18-205. Use of public sewers.
- 18-206. Wastes subject to surcharge.
- 18-207. Protection from damage.
- 18-208. Powers and authority of inspectors.
- 18-209. Violations.

18-201. Definitions. Unless the context specifically indicates otherwise, the meaning of the terms used in this chapter shall be as follows:

(1) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade (68 degrees Fahrenheit) expressed in milligrams per liter.

(2) "Building drain" shall mean that part of the lowest horizontal piping of a drain system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.

(3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "City" shall mean the City of Westmoreland, Tennessee.

(5) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(6) "Cooling water" shall mean the water discharged from any system of condensation, air conditioning, cooling, refrigeration, or other such system, but which has not been in direct contact with any substance which could result in the addition of any polluting material to the water other than an increased temperature of the water and this increase not to exceed limits considered detrimental to any of the facilities of the city or result in any changes in the water characteristics which would be objectionable from the standpoint of odor or other nuisance. The water must be free of oil and polluting material.

(7) "Customer" means any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(8) "Ether soluble material" shall mean the quantity of solids obtained through the use of the ether extraction process as outlined for oils and greases

in the latest edition of "Standards Methods for the Examination of Water and Wastewater."

(9) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(10) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(11) "Mayor" shall mean the mayor of the City of Westmoreland or his authorized deputy, agent, or representative.

(12) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(13) "Normal sewage" shall be regarded as normal for the City of Westmoreland if analyses show a daily average of not more than three hundred (300) milligrams per liter of suspended solids; not more than three hundred (300) milligrams per liter of BOD; not more than twenty-one (21) milligrams per liter of $\text{NH}_3\text{-N}$; and not more than fifty (50) milligrams per liter of ether soluble matter (grease and oil), each.

(14) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions, in grams per liter of solution.

(15) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") (1.27 centimeters) in any dimension.

(16) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(17) "Sanitary sewage" shall mean sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm and surface water.

(18) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(19) "Sewage" shall mean the water carried wastes from residences, business buildings, institutions and industrial establishments, singular or in any combination, together with such ground, surface and storm waters as may be present.

(20) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(21) "Sewage works" or "sewage system" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

(22) "Sewer" shall mean a pipe or conduit for carrying sewage and other waste liquids.

(23) "Shall" is mandatory; "may" is permissive.

(24) "Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow

exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(25) "Storm sewer" or "storm drain" shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the mayor.

(26) "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

(27) "Unpolluted water or waste" shall mean any water or waste containing no free or emulsified grease or oil; acid or alkali; phenols or other substances imparting taste and odor in receiving waters; toxic and poisonous substances in suspension, colloidal state or solution; and noxious or odorous gases and/or other polluting materials. (1978 Code, § 13-201)

18-202. Use of public sewers required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Westmoreland, Tennessee, or in any area under the jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the City of Westmoreland, Tennessee, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet (30.5 meters) of the property line. (1978 Code, § 13-202)

18-203. Private sewage disposal. (1) Where any residence, office, recreational facility or other establishments used for human occupancy is not

accessible to a public sewer as provided in § 18-202, the owner shall provide a private sewage disposal system.

(2) Where any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a one percent (1%) grade in the building sewer but is otherwise accessible to a public sewer as provided in § 18-202, the owner shall provide a private sewage pumping station as provided in § 18-204(8).

(3) A private sewage disposal system may not be constructed within the city limits unless and until a certificate is obtained from the mayor stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than seven thousand five hundred (7,500) square feet.

(4) Any private sewage disposal system must be constructed in accordance with the requirements of the State of Tennessee and of the Sumner County Health Department and the City of Westmoreland, Tennessee, and must be inspected and approved by the authorized representative of the county health department and by the mayor.

(5) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times.

(6) When a public sewer becomes available, the building sewer shall be connected to such public sewer within ninety (90) days of date of notice to do so, and the private sewage disposal system shall be cleaned of sludge and filled with suitable material. (1978 Code, § 13-203)

18-204. Building sewers and connections. (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the mayor.

(2) There shall be two (2) classes of building sewer permits:

(a) For residential and commercial service; and

(b) For service to establishments producing hazardous wastes.

In either case, the customer or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the mayor. A permit and inspection fee of fifteen dollars (\$15.00) for residential or commercial building sewer permit shall be paid to the city at the time the application is filed. Applicants for industrial building sewer permits shall provide a description of the constituents of the waste and shall, if requested by the city, provide a laboratory analysis of the waste if it is in being or of a similar waste if the applicant has another facility in being with a similar waste.

(3) All costs and expense incident to the installation and connection of the building sewer shall be borne by the customer. The customer shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Connection to public sewers shall be made only by a plumber duly authorized in writing by the mayor's office.

(4) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the mayor to meet all requirements of this chapter.

(6) Building sewers shall be at least four inches (4") in diameter. Larger building sewers shall be used as necessary in order to carry the flow anticipated. Four inch (4") building sewers shall be laid on a grade of at least one percent (1%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second. Slope and alignment of all building sewers shall be neat and regular. Pipe materials as specified in § 18-204(7), below, shall be used. Pipe shall conform to the appropriate ASTM specification and shall be laid in conformance with the appropriate AST, specification or with WPCF Manual of Practice No. 9.

(7) Building sewers shall be constructed only of:

- (a) Concrete or clay sewer pipe using rubber compression joints of approved type;
- (b) Cast iron soil pipe with leaded joints;
- (c) Polyvinyl-chloride pipe with rubber compression joints;
- (d) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or
- (e) Such other materials of equal or superior quality as may be approved by the mayor.

Under no circumstances will cement mortar joints be acceptable. Building sewers shall be a minimum of four inches (4") in diameter. Each connection to the public sewer must be made at a wye or service line stubbed out, or in the absence of any other provision, by means of a saddle of a type approved by the city attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

(8) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer at a grade of one percent (1%) or more is possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions, by installation of check valves or other backflow

prevention devices, to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(9) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(10) The connection of the building sewer into the public sewer shall conform to the rules and regulations the county may establish and the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the mayor before installation.

(11) The applicant for the building sewer permit shall notify the mayor when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the mayor or his representative.

(12) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (1978 Code, § 13-204)

18-205. Use of public sewers. (1) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

(2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the mayor.

(3) No person shall discharge or cause to be discharged any of the following described waters or waste to the sanitary sewers:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

(b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2.0) mg/l as CN in the wastes as discharged to the public sewer;

(c) Any waters or wastes having pH lower than 5.5 or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

(d) Solid or viscous substances in quantities or of such size capable of causing obstructions to flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(4) No person shall discharge or cause to be discharged any of the following described waters or wastes to the sanitary sewers except by special written permit, and then only in strict accordance with the terms of the permit. No permit will be issued if it appears likely in the opinion of the mayor that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, violate the National Pollutant Discharge Elimination System Program or the regulations of the State of Tennessee or the Environmental Protection Agency, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the mayor will give consideration of such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(a) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit.

(b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit.

(c) Any waters or wastes containing acidic or alkaline solutions, iron pickling wastes, metal plating wastes, or other process wastes, in sufficient quantities as to be detrimental to the biological treatment process whether by increasing the alkalinity, the acidity, the ionic concentration, or the toxicity. Prospective dischargers with wastes which fall into the classifications of this section shall be responsible for proving their compliance.

(d) Any waters or wastes containing iron, chromium, copper, zinc, cyanide, and similar objectionable or toxic substances to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established as follows:

Hexavalent Chromium	0.00 mg/l
Trivalent Chromium	0.10 mg/l
Nickle	0.1 mg/l
Cyanide	0.1 mg/l
Zinc	0.1 mg/l
Cadmium	0.1 mg/l
Copper	0.1 mg/l

Limits on the concentrations of other metallic constituents and/or toxic substances which may have a detrimental effect on the sewage treatment works may be established by the mayor and/or the Tennessee Department of Public Health, unless the prospective discharger can prove to the aforementioned parties that such substances are amenable to treatment at the treatment works.

(e) Any waters or wastes exerting an excessive chlorine demand as determined by the mayor.

(f) Any waters or wastes containing phenols or other waste or odor-producing substances, in such concentration exceeding limits which may be established by the mayor as necessary after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the mayor in compliance with applicable state or federal regulations.

(h) Any waters or wastes containing unusual concentrations of inert dissolved or suspended solids.

(i) Any water or waste so discharged as to cause slugs as defined herein.

(j) Any water or waste containing excessive color.

(k) Any water or waste containing or resulting in noxious or malodorous gases which create public nuisances or prevent entry into the sewer for maintenance or repair.

(l) Any garbage that has not been properly shredded. The installation and operation of any garbage equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the mayor.

(5) Special permits may be granted for discharge of wastes as itemized under subsection (4) above, only under the following conditions:

(a) Submission to the mayor and to the Tennessee Department of Public Health an engineering report giving complete details regarding source of waste, maximum and average rate of discharge, strength or concentration of each objectionable item before and after pretreatment, any other pertinent details as appropriate, and complete details describing the pretreatment facilities necessary to render these wastes acceptable for inclusion into the city sewer system.

(b) Submission to the mayor of a written application for a permit to discharge into the city sewage system, said application to include a summary of the proposed wastewater characteristics before and after pretreatment, and complete details describing the pretreatment facilities that the owner will provide prior to connection to the city sewer system. Such pretreatment shall, as a minimum, comply with federal pretreatment requirements.

(c) Special permits may be granted only where, in the opinion of the city and its representatives and consultants, the waste can be assimilated, diluted, mixed or controlled to the extent that its discharge will not result in damage to personnel, structures, treatment processes or receiving stream, and will not result in a public nuisance.

(d) All special permits are subject to cancellation ninety (90) days from date of notification thereof, where the customer fails to live up to the condition of the permit, or where the continued discharge of the waste is determined to be hazardous or detrimental to the public sewer system; or may be immediately cancelled where actual damage to personnel, structures or treatment processes has occurred or is occurring.

(e) All special permits shall designate any special conditions or restrictions concerning the discharge of the water or waste to the public sewers.

(f) Special permits shall be good only for the discharge of waters or wastes as described in the application and the applicant must file a supplemental application whenever the quantity, characteristics or methods of discharge of the waste is to be appreciably altered.

(6) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are required for the proper handling of wastes except that such interceptors or traps shall not be required for private living quarters or dwelling units.

All interceptors shall be of type and capacity approved by the city and shall be located so as to be readily accessible for cleaning and inspection. They shall be maintained by the owner, at his expense, in continuous and effective operation at all times.

(7) Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense and they shall be in compliance with any and all federal pretreatment standards that may apply.

(8) Where waters or wastes are otherwise suitable for discharge into the sanitary sewers, but are unusually strong in BOD or solids content as compared to normal domestic sewage, they will be accepted in the sewers but will be subject to a surcharge as outlined in § 18-206 to reimburse the city for the additional treatment plant capacity required for the particular waste.

(9) When required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the mayor. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. The provision of a control manhole shall be mandatory for wastes receiving pretreatment or otherwise altered or regulated before discharge and for wastes which are unusually strong and thereby subject to a surcharge.

(10) All measurements, tests, and analyses of the characteristics of waters and wastes to which references are made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards of life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

(11) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern. The making of such special agreements or arrangements between the city and any industrial concern shall be strictly limited to the capability of the public sewage treatment works to treat such unusual wastes without affecting the operation, maintenance, or effluent quality of the facility and such special agreements or arrangements must be shown by the industry to be the most cost-effective solution to their problem and that such monetary compensation as the county may receive will satisfy the financial demands created in order to treat such wastes from both an operation and maintenance standpoint. Any such special agreement shall be in compliance with applicable federal pretreatment standards, fair user charge and/or industrial cost recovery provisions. (1978 Code, § 13-205)

18-206. Wastes subject to surcharge. (1) Waters or wastes that are otherwise acceptable for discharge to sanitary sewers, but which have a BOD in excess of three hundred (300) parts per million or a suspended solids content in excess of three hundred (300) parts per million or $\text{NH}_3\text{-N}$ content in excess of twenty-one (21) parts per million, will be subject to a surcharge based on the excess strength as compared to normal sanitary sewage, such surcharge being necessary to compensate the city for the extra cost of treating such wastes.

(2) The surcharge on excess BOD, suspended solids and $\text{NH}_3\text{-N}$ shall be as determined by rate ordinance(s) adopted by the City of Westmoreland.

(3) The surcharge(s) shall be based on the analytical results on not less than three (3) twenty-four (24) hour composite samples collected at the control manhole at unannounced, but appropriately equal, intervals during the preceding three (3) months. Samples shall be collected and analyses shall be made by competent operating personnel at the sewage treatment plant or other persons designated by the city in accordance with the latest edition of "Standards Methods for the Examination of Water and Wastewater."

(4) The surcharge(s) provided for herein shall be rendered with and shall be in addition to the normal sewer charge. (1978 Code, § 13-206)

18-207. Protection from damage. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage work. Any person violating this provision shall be subject to immediate arrest under charge of malicious mischief. (1978 Code, § 13-207)

18-208. Powers and authority of inspectors. (1) The mayor and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all industrial and commercial properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The mayor or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(2) While performing the necessary work on private properties referred to in subsection (1), above, the mayor or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 18-205(9).

(3) The mayor and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1978 Code, § 13-208)

18-209. Violations. (1) Any person found to be violating any provision of this chapter except § 18-207 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice permanently cease all violations.

(2) Any person who shall continue any violation beyond the time limit provided for in subsection (1) of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined under the general penalty clause for this code.

(3) Any person violating any of the provisions of this chapter will become liable to the city for any expense, loss, or damage occasioned by the city by reason of such violation. (1978 Code, § 13-209)

CHAPTER 3

SEWAGE AND HUMAN EXCRETA DISPOSAL¹

SECTION

- 18-301. Definitions.
- 18-302. Places required to have sanitary disposal methods.
- 18-303. When a connection to the public sewer is required.
- 18-304. When a septic tank shall be used.
- 18-305. Registration and records of septic tank cleaners, etc.
- 18-306. Use of pit privy or other method of disposal.
- 18-307. Approval and permit required for septic tanks, privies, etc.
- 18-308. Owner to provide disposal facilities.
- 18-309. Occupant to maintain disposal facilities.
- 18-310. Only specified methods of disposal to be used.
- 18-311. Discharge into watercourses restricted.
- 18-312. Pollution of ground water prohibited.
- 18-313. Enforcement of chapter.
- 18-314. Carnivals, circuses, etc.
- 18-315. Violations.

18-301. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred feet (200') of any boundary of said property measured along the shortest available right-of-way;

(2) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than seven hundred fifty (750) gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Environment and Conservation as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five feet (5'). The discharge from the septic tank shall be disposed of in such a manner that it may

¹Municipal code reference
Plumbing code: title 12, chapter 2.

not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data;

(3) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent;

(4) "Human excreta." The bowel and kidney discharges of human beings;

(5) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer;

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented;

(7) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments;

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1978 Code, § 8-301)

18-302. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1978 Code, § 8-302)

18-303. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1978 Code, § 8-303)

18-304. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1978 Code, § 8-304)

18-305. Registration and records of septic tank cleaners, etc.

Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1978 Code, § 8-305)

18-306. Use of pit privy or other method of disposal.

Wherever a sanitary method of human excreta disposal is required under § 18-302 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1978 Code, § 8-306)

18-307. Approval and permit required for septic tanks, privies, etc.

Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1978 Code, § 8-307)

18-308. Owner to provide disposal facilities.

It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-302, or the agent of the owner to provide such facilities. (1978 Code, § 8-308)

18-309. Occupant to maintain disposal facilities.

It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1978 Code, § 8-309)

18-310. Only specified methods of disposal to be used.

No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1978 Code, § 8-310)

18-311. Discharge into watercourses restricted.

No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1978 Code, § 8-311)

18-312. Pollution of ground water prohibited.

No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing

facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1978 Code, § 8-312)

18-313. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code; but such person shall be allowed the number of days herein provided within which to make permanent correction. (1978 Code, § 8-313)

18-314. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1978 Code, § 8-314)

18-315. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1978 Code, § 8-315)

CHAPTER 4

CROSS CONNECTIONS, AUXILIARY INPUTS, ETC.¹

SECTION

- 18-401. Definitions.
- 18-402. Regulated.
- 18-403. Statement required.
- 18-404. Violations.

18-401. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(2) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(3) "Cross connection." Any physical connection whereby the public water supply is connected with any other water system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which normally contains sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(6) "Public water supply." The waterworks system furnishing water to the City of Westmoreland for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation. (1978 Code, § 8-401)

18-402. Regulated. It shall be unlawful for any person to cause a cross connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the superintendent of the water works of the City of Westmoreland. (1978 Code, § 8-402)

18-403. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the water works a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Public Health, and the operation and maintenance of same have been placed under the direct supervision of the superintendent of the water works. (1978 Code, § 8-403)

18-404. Violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with such provisions. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time to be allowed shall be designated by the superintendent of the water works. In addition to, or in lieu of any fines and penalties that may be judicially assessed for violations of this chapter, the superintendent of the water works shall discontinue the public water supply service at any premises upon which there is found to be a cross connection, auxiliary intake, bypass, or interconnection, and service shall not be restored until such cross connection, auxiliary intake, bypass, or interconnection has been discontinued. (1978 Code, § 8-404)

CHAPTER 5

USER CHARGE SYSTEM

SECTION

18-501. Definitions.

18-502. User charge rate.

18-503. Excessive strength surcharge rate.

18-504. Special provisions.

18-501. Definitions. Unless the context specifically indicated otherwise, the meaning of terms used in this chapter shall be as follows:

(1) "Connection fee" shall mean a fee to be paid by the user at the time the user connects or "ties-on" to the sewage collection system.

(2) "Fair user charge" shall mean a system of charging each user of the Westmoreland sewage works an equal amount depending upon the number of one thousand (1,000) gallons of water purchased each month by the user regardless of water usage by the user.

(3) "Non-metered user" shall mean any user, domestic, commercial or industrial who discharges waste to the sewage system but whose water supply is not metered by the City of Westmoreland.

(4) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm-waters as may be present.

(5) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposal of sewage.

(6) "User" shall mean any individual, firm, company, association, society, corporation, or group.

(7) "Water" shall mean the city's treated water supply or any other metered supply which a person uses and for which a person pays the City of Westmoreland for the consumption thereof. (Ord. #127, Dec. 1978)

18-502. User charge rate. (1) All users of the Westmoreland sewage works shall pay for the use of the sewage works at a uniform rate per each one thousand (1,000) gallons of water purchased by the user from the city. The same rate shall apply regardless of the amount of water a user consumes each month and regardless of how the user chooses to use the water consumed. The rate will include a charge for payment of the bonded indebtedness of the sewage works and for the proportionate share of the operations and maintenance cost including replacement.

(2) The fair user charge rate shall be determined as necessary to pay for itself and shall be based upon the anticipated revenue required to meet the financial obligations of the sewage works.

(3) The monthly charge for sewer use as determined by application of the fair user charge shall be included on the user's monthly water bill and identified as a sewer charge. At least once each year a statement shall be included on or with the monthly water bill indicating what portion of the sewer charge is allocated for debt service and what portion is allocated for O&M.

The fair user charge rate for the initial full year of operation of the sewer system shall be as follows:

- (a) Billing fee--all customers. \$1.00
- (b) Sewer use charge--per 1,000 gallons
water used (minimum chargeable--
1,500 gallons). \$3.00

The sewer bill for an average user (4,000 gallons/month)

Then will be:

$$\$1.00 + 4 \times \$3.00 = \$13.00$$

Based on an anticipated first year O&M cost of approximately forty-two thousand dollars (\$42,000.00) and bond retirement cost of approximately fifty thousand dollars (\$50,000.00) the percentage cost breakdown for the sewer charge is forty-six percent (46%) for O&M and fifty four percent (54%) for debt service. (Ord. #127, Dec. 1978)

18-503. Excessive strength surcharge rate. (1) Any user of the sewage works whose sewage discharge strength exceeds the allowable limits as delineated in the City of Westmoreland's Sewer Use Ordinance (Ord. #125) for BOD, suspended solids, $\text{NH}_3\text{-N}$, or other constituent for which a surcharge may be imposed, shall pay an amount over and above the fair user charge rate for water consumption. The surcharge will be the user's proportionate share of the O&M costs for handling its periodic volume of wastewater which exceeds the strength of BOD_5 , suspended solids, $\text{NH}_3\text{-N}$, and/or other elements in "normal wastewater" as defined in the sewer use ordinance. The amount of the surcharge will be determined by the following formula:

$$C_s = (B_c \cdot B + S_c \cdot S + N_c \cdot N + P_c \cdot P) \underline{V_u}$$

Where: C_s = Surcharge for wastewaters exceeding the strength of "normal wastewater" expressed in dollars per billing period.

B_c = O&M cost for treatment of a unit of BOD expressed in dollars per mg/l per 1,000 gallons.

B = Concentration of BOD from a user above the base level of 300 mg/l expressed in mg/l.

Sc = O&M cost for treatment of a unit of suspended solids expressed in dollars mg/l per 1,000 gallons.

S = Concentration of suspended solids from a user above the base level of 300 mg/l, expressed in mg per liter.

NC = O&M cost for treatment of a unit of $\text{NH}_3\text{-N}$ expressed in dollars per pound.

N = Concentration of $\text{NH}_3\text{-N}$ from a user above the base level of 21 mg/l expressed in mg per liter.

PC = O&M cost for treatment of a unit of any pollutant which the publicly owned treatment works is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per mg/l per 1,000 gallons.

P = Concentration of any pollutant from a user above a base level. Base levels for pollutants subject to surcharges will be established by the council.

Vu = Volume contribution of user per billing period in the thousands of gallons.

Based on an estimated O&M cost of forty-two thousand dollars (\$42,000.00) and for the first year, the following factors will be utilized in the excessive strength surcharge formula:

Bc = \$0.00115 per mg/l per 1,000 gallons

Sc = \$0.00153 per mg/l per 1,000 gallons

Nc = \$0.01366 per mg/l per 1,000 gallons

The values of parameters used to determine user charges may vary from time to time. Therefore, the Council of Westmoreland is authorized to modify any parameter or values shall be undertaken whenever necessary, but in no case less frequently than annually.

(2) The excessive strength surcharge rates shall be determined prior to the beginning of each fiscal year and shall be based upon those operating expenses of the sewage works which are applicable to the removal of BOD, suspended solids $\text{NH}_3\text{-N}$, or other constituents from the sewage. (Ord. #127, Dec. 1978)

18-504. Special provisions. (1) (a) Connection fee. As provided by the City of Westmoreland's "Ordinance Regulating the Use of Stationary

Sewers," Ord. #125, a connection fee shall be levied on all users connecting onto the sanitary sewer system.

(b) Exemptions. Those users who connect onto the new sewer system within ninety (90) days of notification by the city that public sewers are available will not be liable for the connection fee. If requested in writing, an extension for connection onto the system may be granted without imposition of the connection fee, however, the fair user charge based on water use will go into effect at the end of the ninety (90) days notice.

(c) For users who fail to tie-on within the time allotted in subsection (b) or for subsequent new connections, a connection fee to defray the cost to the City of Westmoreland of providing a holding tank, and vacuum valve and valve pit installation will be levied. This connection fee will be subject to review and adjustment annually. The connection fee for the first year will be based on actual installation cost of the various components as reflected in the construction cost unit price breakdown being paid by the city for construction of the new system.

The construction costs are:

(i) Valve pit installation	With 30 Gal Holding Tank	With 60 Gal Holding Tank
	\$ 765.00	\$1,075.00
(ii) Vacuum valve	<u>\$ 525.00</u>	<u>\$ 525.00</u>
Total cost per installation	\$1,280.00	\$1,600.00

Throughout the sewer system the average connections per vacuum valve for domestic users (thirty (30) gallon holding tank) are approximately:

$$\frac{605 \text{ Customers}}{449 \text{ Valves}} = 1.35 \text{ Customers/valve}$$

The first year's connection fee for domestic users will therefore be:

$$\frac{\$1,280 \text{ per installation}}{1.35 \text{ customers per valve}} = \$950.00$$

A large institutional, commercial, or industrial customer requiring installation of an individual valve and valve pit with a sixty (60) gallon holding tank will be charged the full amount of the construction cost or one thousand six hundred dollars (\$1,600.00).

(2) Non-metered domestic user. Users who have a private water system (i.e. well) or whose water supply for any reason is not metered, may discharge into the City of Westmoreland's Sewer System.

Connection to the sewer system will be governed by the provisions of subsection (1) of this section.

Monthly use charges shall be initially determined by the council and their representative and adjusted annually as required. In order to calculate the first years monthly charge for non-metered domestic users, the following formula may be used to calculate the probable water usage upon which to base the charges.

$$Q = Q_{\min} \times N/N_{\min} \times (B_1 + B_2 + B_3 + B_4)$$

Where:

Q =	Estimated flow for non metered user
Q min =	Minimum flow for billing = 1,500 gal/month
N =	Number of people in non-metered user's household
N min =	Number of people in minimum use household = 2
B ₁ =	Constant for first bathroom (toilet) = 1.0
B ₂ =	Constant for second bathroom = 0.35
B ₃ =	Constant for third bathroom = 0.15
B ₄ =	Constant for each additional bathroom = 0.1

For a user having a household of four (4) persons and two (2) baths:

$$Q = 1,500 \text{ gallons/month} \times 4/2 \times 11 + 0.351 = 4,500 \text{ gal/month}$$

Following the first year's operation the non-metered domestic user may request that his monthly charge be adjusted or the city may elect to adjust the charges without receiving a request.

The same formula may be used to adjust the rate if any of the input factors have changed.

The City of Westmoreland may also calculate the rate by averaging the previous year's bill of at least five (5) metered customers having the same or similar household make-up and number of bathrooms.

(3) Non-metered commercial, industrial or institutional user. For users in this category, the charges and fees may be based upon an estimate of the volume to be discharged, prepared by the council or their representative. A rational method will be used to estimate the quantity of wastewater discharged and may consider such factors as number of fixtures, seating capacity, population equivalent, annual production of goods and services, or such other determinations of water use, including temporary metering, necessary to estimate the wastewater volume discharged. (Ord. #127, Dec. 1978)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20**MISCELLANEOUS****CHAPTER**

1. FAIR HOUSING ORDINANCE.
2. JOINT CIVIL DEFENSE ORGANIZATION.

CHAPTER 1**FAIR HOUSING ORDINANCE****SECTION**

- 20-101. Policy.
- 20-102. Definitions.
- 20-103. Unlawful practice.
- 20-104. Discrimination in the sale or rental of housing.
- 20-105. Discrimination in the financing of housing.
- 20-106. Discrimination in the provision of brokerage services.
- 20-107. Exemption.
- 20-108. Administration.
- 20-109. Education and conciliation.
- 20-110. Enforcement.
- 20-111. Investigations; subpoenas; giving of evidence.
- 20-112. Enforcement by private persons.

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 administering 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)

ORDINANCE NO. 495**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF WESTMORELAND, TENNESSEE.**

WHEREAS some of the ordinances of the Town of Westmoreland are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Town Council of the Town of Westmoreland, Tennessee, has caused its ordinances of a general, continuing, and permanent application or of a penal nature to be codified and revised and the same are embodied in a code of ordinances known as the "Westmoreland Municipal Code," now, therefore:

BE IT ORDAINED BY THE TOWN OF WESTMORELAND:

Section 1. Ordinances codified. The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Westmoreland Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed,

direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

Each day any violation of the municipal code continues shall constitute a separate civil offense.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The town council, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, May 20, 2010.

Passed 2nd reading, June 17, 2010.

Cynthia H. Templeton
Mayor

Fredia Carter
Recorder

ORDINANCE NO. 507

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE CITY OF WESTMORELAND, TENNESSEE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTMORELAND, TENNESSEE, THAT:

Section 1. Ordinances codified. The supplemental and replacement pages contained in this revision the City of Westmoreland Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the City of Westmoreland Municipal Code.

This includes revisions required to the municipal code when considering ordinances #490 through #500 plus revisions set out in writing by the City of Westmoreland.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the supplement or the municipal code or other applicable law.

When any person is fined for violating any provision of the supplement and defaults on payment of the penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until the penalty is discharged by payment, or until the person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged the penalty.¹

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, section 40-24-101 et seq.

invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, including all the codes and ordinances therein adopted by reference, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

Passed 1st Reading 7-21, 20 11.

Passed 2nd Reading 8-18, 20 11.


Mayor


Recorder