

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

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

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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

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- 4-205. Sick leave.
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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.
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- 4-404. Coverage.
- 4-405. Employer's rights and duties.
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- 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)