

**ZONING ORDINANCE  
WESTMORELAND, TENNESSEE  
ORDINANCE NUMBER 175**

**ADOPTED JULY 16, 1984**

**LAST AMENDED: DECEMBER 18, 2014**

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AMENDMENTS

WESTMORELAND ZONING ORDINANCE

<u>DATE</u>	<u>ORDINANCE NO.</u>	<u>AMENDMENTS</u>
November 16, 1998	326	<p>Article V, Subsection 5.051.1, <u>R-1, Low-Density Residential District, E, Dimensional Regulations</u>; Amended 3, <u>Yard Requirements</u>, Minimum Side Yard, -For One and Two Story Buildings, Deleting 12 Feet and Replacing with 10 ft., and Deleting 20 Feet; and</p> <p>Under Subsection 5.051.2, <u>R-2, Medium-Density Residential District, E, Dimensional Regulations</u>, Amended 3, <u>Minimum Yard Requirements</u>, -For One and Two Story Buildings, Deleting 12 Feet and Replacing with 10 ft.</p>
August 16, 1999	336	<p>Article VI, Amended Section 6.070, <u>Exception to Lot Width Requirements</u>.</p>
November 17, 2003	358-A	<p>Amended Article IV, <u>Supplementary Provisions Applying to Specific Districts</u>, Section 4.015, <u>Requirements for Design of Parking Lots</u>, by Adding: E.</p>
September 20, 2004	364	<p>Amended Article II, Section 2.020, <u>Definitions</u>, by Adding: Adult Arcade, Adult Bookstore or Adult Video Store, Adult Cabaret or Adult Theater, Adult Entertainment, Adult Mini-Motion Picture Theater, Adult Motion Picture Theater, Adult-Oriented Establishment, Escort Service, Lewd, Massage Parlor, Obscene, Sauna, Sexual Conduct, Sexual Encounter Center, Sexual Gratification, Sexual Stimulation, Specified Anatomical Areas, Specified Sexual Activities, Specified Services</p> <p>Amended Article III, <u>General Provisions</u>, by Adding: Section 3.130, <u>Requirements Governing Adult Oriented Establishments</u></p> <p>Article V, <u>Zoning Districts</u>, Subsection 5.053.1, <u>I-1 General Industrial District, C, Uses Permitted as Special Exceptions</u>, is amended by Adding a New Number 4.</p>

Amendments (Continued)

<u>DATE</u>	<u>ORDINANCE NO.</u>	<u>AMENDMENTS</u>
June 19, 2006	374	Article V, <u>Zoning Districts</u> , Deleted and Replaced Subsection 5.054, <u>Floodplain District - Floodplain Management Regulations</u> , to comply with National Flood Insurance Program Requirements. Renumbered to 5.060 to coincide with Ordinance.
July 21, 2011	505	Article V, <u>Zoning Districts</u> , Deleted and Replaced Subsection 5.052, <u>Commercial District</u> , to amend permitted uses and uses permitted as special exceptions.
July 29, 2013	072013-1	Article V, <u>Zoning Districts</u> , Subsection 5.052.2, <u>C-2 Highway Services District</u> , C, <u>Uses Permitted as Special Exception</u> , is amended by Adding a new Number 3.  Article V, <u>Zoning Districts</u> , Subsection 5.053.1, <u>I-1 General Industrial District</u> , C, <u>Uses Permitted as Special Exception</u> , is amended by Adding a new Number 5.
December 18, 2014	112014-1	Amended Article II, Section 2.020, <u>Definitions</u> , by Adding Kennel and Amending Light Industry.  Amended Article IV, <u>Supplementary Provisions Applying to Specific Districts</u> , by Adding Section 4.110, <u>Development Standards for Animal Hospitals, Kennel and Pounds</u> .  Article V, <u>Zoning Districts</u> , Subsection 5.051.2.E.1., <u>Lot Size and Density of Development</u> , is Amended to change lot size requirements for mobile homes located on individual lots.  Article V, <u>Zoning Districts</u> , Subsection 5.052.2, <u>C-2 Highway Services District</u> , B, <u>Uses Permitted</u> , is Amended by deleting and replacing Number 24.  Article VI, <u>Exceptions and Modifications</u> , Section 6.021, <u>Provisions Governing Nonconforming Uses</u> , is Amended by deleting and replacing the following Subsections 6.021.A., 6.021.G., and 6.021.H.

**ARTICLE I**  
**ENACTMENT**

**SECTION**

- 1.010 Authority
- 1.020 Title
- 1.030 Enactment
- 1.040 Purpose

**1.010 AUTHORITY**

An Ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-401, Tennessee Code, to provide for the establishment of districts within the corporate limits of the Town of Westmoreland, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the percentage of the lot which may be occupied, the sizes of yards, courts and other open spaces, the density of population, and the uses of buildings, structures and land for trade, industry, residence, recreation, public activities and other purposes; to provide methods of administration of this Ordinance; and to prescribe penalties for the violation, thereof.

**1.020 TITLE**

This Ordinance shall be known as **The Zoning Ordinance of Westmoreland, Tennessee, dated, July 16, 1984, Ordinance No. 175**. The zoning map shall be referred to as the **Official Zoning Map of Westmoreland, Tennessee**, and all explanatory matter thereon is hereby adopted and made a part of this Ordinance.

**1.030 ENACTMENT**

**WHEREAS**, Section 13-7-201 through 13-7-401, of the Tennessee Code, empowers the Town to enact a zoning ordinance and to provide for its administration enforcement, and amendment, and

**WHEREAS**, The Westmoreland Board of Mayor and Aldermen deems it necessary, for the purpose of promoting the public health, safety, morals, convenience, order, prosperity and general welfare of the Town to enact such an ordinance, and

**WHEREAS**, all the requirements of Section 13-7-201 through 13-7-401, of the Tennessee Code, with regard to the preparation of the zoning plan by the Planning Commission and subsequent action of the Board of Aldermen have been met;

**NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN THAT THE ZONING ORDINANCE OF WESTMORELAND, TENNESSEE, BE ENACTED INTO LAW.**

**1.040 PURPOSE**

The purpose of this Ordinance is to promote the public health, safety, morals, convenience, order, prosperity and general welfare by:

- A. Enhancing the character and stability of residential, business, commercial, and industrial areas, and promoting the orderly and beneficial development of such areas;
- B. Preventing the overcrowding of land;
- C. Conserving the value of land and buildings;
- D. Minimizing traffic hazards and congestion;
- E. Preventing undue concentration of population;
- F. Providing for adequate light, air, privacy, and sanitation;
- G. Reducing hazards from fire, and other dangers;
- H. Assisting in the economic provision, utilization, and expansion of all services provided by the public sector, including, but not limited to roads, water service, recreation, schools, and emergency services;
- I. Encouraging the most appropriate uses of land; and
- J. Enhancing the natural, man-made and historical amenities of Westmoreland, Tennessee.

**ARTICLE II**  
**DEFINITIONS**

**SECTION**

- 2.010 Scope
- 2.020 Definitions

**2.010 SCOPE**

For the purpose of this Ordinance and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- C. The word "shall" is mandatory.
- D. The word "may" is permissive.
- E. The words "used" or "occupied" includes the words "intended," "designed," or "arranged to be used" or "occupied."
- F. The word "lot" includes the words "plot" or "parcel."

**2.020 DEFINITIONS**

The following words, terms, and phrases are hereby defined as follows and shall be interpreted as such throughout this Ordinance. Terms not herein defined shall have their standard dictionary definitions or such as the context may imply.

**ACCESS:** The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

**ACCESSORY BUILDING:** A subordinate building, the use of which is incidental to that of a principal building and located upon the same lot therewith.

**ACCESSORY USE:** A use customarily incidental, appropriate, and subordinate to the principal use of land or buildings and located upon the same lot therewith.

**ADULT ARCADE:** Any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projections, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting, describing of "specific sexual activities" or "specified anatomical areas." See definitions of SPECIFIED ANATOMICAL AREA and SPECIFIED SEXUAL ACTIVITIES). **(Added by Ordinance 364, September 20, 2004)**



**ADULT BOOKSTORE OR ADULT THEATER:** A business which offers, as its principal or predominate stock or trade, sexually oriented material, devices or paraphernalia or specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults. **(Added by Ordinance 364, September 20, 2004)**

**ADULT CABARET OR ADULT THEATER:** An establishment which features as a principal use of its business, entertainers and/or waiters and/or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material; including swim suits, lingerie, or latex covering. "Adult Cabaret" includes a commercial establishment, which features entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainers. **(Added by Ordinance 364, September 20, 2004)**

**ADULT ENTERTAINMENT:** Any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, which has a significant or substantial portion of such performance, any actual or simulated performance of specified sexual activities of exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers. **(Added by Ordinance 364, September 20, 2004)**

**ADULT MINI-MOTION PICTURE THEATER:** An enclosed building with a capacity of less than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "SPECIFIED SEXUAL ACTIVITIES" or "SPECIFIED ANATOMICAL AREAS" as defined in this section, for observation by patrons therein. **(Added by Ordinance 364, September 20, 2004)**

**ADULT MOTION PICTURE THEATER:** An enclosed building with a capacity of fifty (50) or more persons regularly used or presenting material having a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein, for observation by patrons therein. **(Added by Ordinance 364, September 20, 2004)**

**ADULT-ORIENTED ESTABLISHMENT:** Includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna, and further "ADULT-ORIENTED ESTABLISHMENT" means any premises to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booth, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or member when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. "ADULT-ORIENTED ESTABLISHMENT" further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other item of like import. **(Added by Ordinance 364, September 20, 2004)**

**ADVERTISING:** Includes any writing, printing, painting, display, emblem, drawing, sign, or other device designed, used or intended for advertising, whether placed on the ground, rocks, trees, tree stumps, or other natural structures or on buildings, structures, milestones, signboards, wallboard, roofboard, frames, supports, fences or other man-made structure, and any such advertising is a structure within the meaning of the word "structure" as utilized in this ordinance.

**ADVERTISING SIGN OR STRUCTURE:** See definition, Sign.

**AGRICULTURAL USE:** This includes all forms of agriculture, growing of crops in the open, dairying, grazing, the raising and maintaining of poultry and other livestock, horticulture, viticulture, floriculture, forests, and woods, provided, however, all health codes of Westmoreland, Tennessee, shall be complied with.

The feeding or disposal of community or collected garbage to animals shall not be deemed an agricultural use, nor shall commercial feed lots, the raising of fur-bearing animals, fish or minnow hatcheries, riding stables, livery or boarding stables or dog kennels be so considered.

**AGRICULTURAL ACCESSORY USE:** Those structures or equipment which are normally required in the operation of agricultural uses.

**ALLEY:** A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility and public service purposes.

**ALTERATION:** As applied to a building or structure, means a change or rearrangement in the structural parts, or an enlargement, whether by extending a side or by increasing its height or structural changes, other than repairs, that would affect safety. The term "alter" in its various modes and tenses and its practical forms, refers to the making of an alteration.

**AREA, BUILDING:** The total area taken on a horizontal plan at the main grade level, of the principal building and all necessary buildings exclusive of uncovered porches, terraces, and steps.

**AUTOMOBILE WRECKING:** The dismantling, storage, sale or dumping of used motor vehicles, trailers, or parts thereof.

**AUTOMOBILE WRECKING, JUNK, AND SALVAGE YARDS:** Any lot or place which is exposed to weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically feasible to make operative, are placed, located, or found.

**AVERAGE GROUND ELEVATION:** The elevation of the mean finished grade at the front of a structure.

**BASEMENT:** A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than one-half (1/2) of its height is above the average ground elevations or when subdivided and used for commercial activities.

**BOARD:** The Westmoreland, Tennessee, Board of Zoning Appeals.

**BUFFER STRIP:** A greenbelt planted strip not less than ten (10) feet in width. Such a greenbelt shall be composed of one (1) row of evergreen trees, spaced not more than forty (40) feet apart and not less than two (2) rows of shrubs or hedges, spaced not more than five (5) feet apart and which grow to a height of five (5) feet or more after one (1) full growing season and which shrubs will eventually grow to not less than ten (10) feet.

**BUILDING:** Any structure having a roof supported by columns or by walls, including tents, lunch wagons, dining cars, mobile homes, and similar structures whether stationary or movable.

**BUILDING AREA OF A LOT:** That portion of a lot bounded by the required rear yard, side yards, and the building setback line.

**BUILDING, MAIN OR PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the lot on which it is situated.

**BUILDING SETBACK LINE:** A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed, except as otherwise provided.

**BUILDING SETBACK LINE, FRONT:** A line delineating the minimum allowable distance between the street right-of-way, or if an official future street right-of-way has been established, from that future street right-of-way line, and the front of a building on a lot. The front building setback line extends the full width of the lot and is parallel to or concentric with the street right-of-way.

**BUILDING SETBACK LINE, REAR:** A line delineating the minimum allowable distance between the rear property line and a building on a lot (other than for permitted accessory structures). The rear setback line extends the full width of the lot.

**BUILDING SETBACK LINE, SIDE:** A line delineating the minimum distance between the side property line and a building on a lot. The side setback line extends from the front building setback line to the rear building setback line.

**BUSINESS AND COMMUNICATION SERVICES:** The provision of services of clerical, goods brokerage, communications of a minor processing nature, including multi-copy and blueprinting services, custom printing, but excluding the printing of books, other than pamphlets and small reports.

**CAMPING GROUND:** A parcel of land used or intended to be used, let, or rented for occupancy by campers or for occupancy by camping trailers, tents, or movable or temporary dwellings, rooms, or sleeping quarters of any kind.

**CLINIC:** See Medical Facility.

**CONVENIENCE SALES:** The retail sale of small convenience items such as toiletries, tobacco, and magazines. The dispensing of petroleum products may be included as accessory to convenience food products retailing.

**CONVENIENCE SERVICES:** Services which are needed frequently or recurrently, such as barber and beauty care; and includes the operation of self-service laundromats but excludes other apparel cleaning and repair services.

**COUNTRY CLUB:** A chartered, nonprofit membership club, with facilities catering primarily to its membership and providing one or more of the following recreational or social amenities: golf, riding, club house, pool, tennis, dining facilities, lounge.

**COVERAGE:** The lot area covered by all buildings located therein, including the area covered by all overhanging roofs.

**DAY NURSERY:** Any place, home, or institution, which receives five (5) or more young children, conducted for cultivating the normal aptitude for exercise, play observation, initiation, and construction.

**DEVELOPMENT:** Any man-made change to improve or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations. Agricultural activities such as plowing or cultivating and gardening activities are not included in this definition of development.

**DISTRICT:** Any section or sections of the area lying within Westmoreland, Tennessee, for which the regulations governing the use, density, bulk, height, and coverage of buildings and other structures are in force.

**DWELLING:** A building or part thereof used as a habitation under one of the following categories:

- (a) Single-detached dwelling means a building and accessories thereto principally used, designed, or adapted for use by a single household.
- (b) Duplex dwelling means a building and accessories thereto principally used, designed, or adapted for use by two (2) households, the living quarters of each of which are completely separate.
- (c) Semi-detached dwelling means a building containing not more than two (2) dwelling units, attached at a side to not more than one other building containing not more than two (2) dwelling units separated by a party wall without openings with each building having a separate lot with dimensions meeting regulations for the district, or so located on land in the same ownership that individual lots meeting district requirements could be provided, in which case the dimensions of such land shall not be reduced below those required for provision of separate lots.
- (d) Attached dwelling means a building containing not more than two (2) dwelling units, attached at the side or sides in a series of three (3) or more buildings each containing not more than two dwelling units. At points of attachment, such buildings shall be separated from each other by fire walls extending from footings through roofs without openings which would permit the spread of fire from one (1) building to another.
- (e) Apartment dwellings means a building and accessories thereto principally used, designed, or adapted for use as occupancy by three (3) or more households each of which has separate living quarters.

- (f) Rooming house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and without owner-provided cooking and dining facilities.
- (g) Boarding house means a building and accessories thereto principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and having common cooking and dining facilities.
- (h) Multi-family means a townhouse or apartment dwelling.
- (i) Prefabricated dwelling means a single detached dwelling constructed primarily off-site, designed to be transported on a flat-bed truck or trailer, provided that it is installed on a permanently enclosed concrete or masonry foundation, with sewer and water connections designed for permanent connection to municipal or on-site systems, and permanently connected to such systems. Such structures are distinguished from mobile homes as described elsewhere in this ordinance when they have a minimum gross floor area of six hundred (600) square feet and have no horizontal exterior dimensions of less than fifteen (15) feet not including porches or carports. When such a structure meets the above-stated requirements it shall qualify as a single detached dwelling.
- (j) Mobile home means a vehicular portable structure built on a permanent chassis, designed for year-round occupancy and designed to be used with or without a permanent foundation when connected to the required utilities including the plumbing, heating, and electrical contained therein, and which is capable of being moved, towed, or transported by another vehicle. Recreation vehicles and travel trailers are not included in this definition of mobile home.

**ESCORT SERVICE:** A person who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts: **(Added by Ordinance 364, September 20, 2004)**

- (a) "Service-Oriented Escort Bureau" is an escort service which:
  - (1) Maintains an open office at an established place of business;
  - (2) Employs or provides only escorts which possess valid permits issued under this part;
  - (3) Does not use an escort bureau runner; and
  - (4) Does not advertise that sexual conduct will be provided to a patron.
- (b) "Sexually-Oriented Escort Bureau" is an escort service which:
  - (1) Does not maintain an office;
  - (2) Employs as an employee, agent or independent contractor, or uses an escort bureau runner;

- (3) Advertise that sexual conduct will be provided, or that escorts which provide sexual conduct will be provided, referred, or introduced to a patron.
- (4) Solicits, offers to provide or does provide acts of sexual conduct to an escort patron;
- (5) Does not deliver contracts to every patron or customer, or
- (6) Employs, contracts with a sexually oriented escort or refers or provides to a patron, a sexually oriented escort.

**FAMILY:** One or more persons related by blood, marriage, or adoption, or a group not all related by blood, marriage, or adoption, occupying the premises and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding or lodging house or similar dwelling for group use. A family shall not be deemed to include domestic servants employed by said family.

**FINANCIAL, CONSULTING, AND ADMINISTRATIVE:** Includes the provision of financial, insurance, real estate brokerage services, as well as the provision of advice, designs, information, or consultation of a professional nature. Also includes the executive, management, administrative, and desired activities of private, profit-oriented firms, other than public utility firms. These activities do not include the storage of goods and chattels for the purpose of sale unless otherwise permitted by other provisions of this regulation.

**FLOOR AREA:** The sum of the gross floor area for each of the several stories under roof, measured from the exterior limits of faces of a building or structure.

**FRONTAGE:** All the property on one side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead ended, then all the property abutting on one side between an intersecting street and the dead end of the street.

**GASOLINE SERVICE STATION:** Any area of land, including structures thereon, that is utilized for the retail sale of gasoline, oil, or automobile accessories, and incidental services including facilities for lubricating, car washing and cleaning, or otherwise servicing automobiles, but not including painting or major repair.

**GRADE, FINISHED:** The completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

**HEALTH DEPARTMENT:** The Sumner County Health Department.

**HEIGHT OF BUILDING OR STRUCTURES:** The vertical distance from the average ground elevation or finished grade at the building line, whichever is the highest, to the highest point of the building or structure.

**HOME OCCUPATION:** See Section 4.040.

**HOSPITAL:** See Medical Facilities.

**JUNK YARD OR SALVAGE YARD:** A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts, thereof.

**KENNEL:** A commercial establishment in which more than five (5) dogs and/or other domesticated animals more than six (6) months old are housed for the purpose of grooming, breeding, boarding, training, and/or sale. **(Added by Ordinance 112014-1, December 18, 2014)**

**LEWD:** Inclined to, characterized by, or inciting to lust or lechery. Obscene or indecent as language, songs, etc. **(Added by Ordinance 364, September 20, 2004)**

**LIGHT INDUSTRY:** The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create excess refuse, noise, smoke, fumes, odors, glare, dirt, noxious gases, heat or health or safety hazards outside of the building by reason of fire, effects of industrial wastes, psychological effects, and generation of generation of motor vehicle traffic or a lot where such assembly, fabrication, or processing takes place and where such processes are housed entirely within a building. **(Amended by Ordinance 112014-1, December 18, 2014)**

**LOADING SPACE:** An area ten (10) feet by forty (40) feet with a fourteen (14) foot height clearance providing for the standing, loading, or unloading of a truck or other vehicle.

**LOT:** A piece, plot, or parcel of land in one ownership, which may include one or more lots or record, occupied or to be occupied by one principal building and its accessory buildings, including the open spaces required under this ordinance.

**LOT, AREA:** The total surface land area included within lot lines.

**LOT, CORNER:** A lot of which at least two (2) adjoining sides abut their full lengths on a street, provided that the interior angle at the intersection of two such sides is less than one hundred thirty-five (135) degrees.

**LOT, DEPTH:** The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.

**LOT, FRONTAGE:** That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.

**LOT, INTERIOR:** A lot other than a corner lot.

**LOT, LINES:** The boundary dividing a given lot from the street, an alley or adjacent lots.

**LOT OF RECORD:** A lot which is part of a subdivision recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds prior to the effective date of this zoning ordinance.

**LOT, WIDTH:** The width of a lot at the building setback line measured at right angles to its depth.

**MARINA:** A facility for the docking and servicing of boats.

**MESSAGE PARLOR:** An establishment or place primarily in the business of providing massage or tanning services where one or more of the employees exposes to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material. **(Added by Ordinance 364, September 20, 2004)**

**MEDICAL FACILITIES:**

**Convalescent, Rest or Nursing Home:** A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

**Dental Clinic or Medical Clinic:** A facility for the examination and treatment of ill and afflicted human out-patients, provided, however, that patients are not kept overnight except under emergency conditions.

**Hospital:** An institution providing health services primarily for human in-patient medical care for the sick or injured and including related facilities such as laboratories, out-patient facilities, emergency medical services, and staff offices which are an integral part of the facility.

**Public Health Center:** A facility utilized by a health unit for the provision of public health services.

**MINIMUM FLOOR ELEVATION:** The lowest elevation permissible for the construction, erection, or other placement of any floor, including a basement floor.

**MOBILE HOME PARK:** Any area, tract, site or plot of land whereupon mobile homes as herein defined are placed, located or maintained, and shall include all accessory buildings used or intended to be used as part of the equipment, thereof.

**NONCONFORMING USE:** A building, structure, or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is located.

**NOXIOUS MATTER:** Material or substance in gaseous, liquid or solid form which is capable of causing injury to living organisms, chemical reactions, or detrimental effects upon the social, economic or psychological well-being of individuals.

**OBSCENE:** Offensive to modesty or decency; indecently lewd; abominable; disgusting; repulsive. **(Added by Ordinance 364, September 20, 2004)**

**OPEN SPACE:** An area on the same lot with a main building which is open, unoccupied and unobstructed by structures from the ground to the sky, except as otherwise provided in this ordinance.

**OWNER:** Includes his duly authorized agent or attorney, a purchaser, devisee, fiduciary, and/or a person having a vested or contingent interest in the property in question.

**PARKING LOT:** An off-street facility including parking spaces, with adequate provisions for drives and aisles for maneuvering and obtaining access, and for entrance and exit.

**PARKING SPACE:** An off-street space available for parking one motor vehicle and having an area of not less than one hundred-sixty-two (162) square feet exclusive of



passageways and driveways giving access thereto, and having access to a street or alley. Right angle parking spaces shall have minimum dimensions of nine (9) by eighteen (18) feet.

**PLANNING COMMISSION:** The Westmoreland Municipal Planning Commission.

**PLAT:** A map, plan, or layout indicating the location and boundaries of individual properties.

**PRINCIPAL USE:** The specific primary purpose for which land or a building is used.

**PRIVATE WASTE WATER TREATMENT:** Individual subsurface sewage disposal systems (i.e., septic tanks), package treatment plants or individual aeration systems employed for the collection and treatment and/or disposal of wastewater, as approved by the local health office.

**PROFESSIONAL OFFICE:** The office of a physician, dentist, attorney, architect, engineer, planner, accountant, or similar professions.

**PUBLIC USES:** Public parks, schools, and administrative, cultural, and service buildings, not including public land or buildings devoted solely to storage and maintenance of equipment and materials.

**PUBLIC WASTE WATER SYSTEM:** A municipal, community, or utility district sewerage treatment and disposal system of a type approved by the State Department of Conservation and Environment, and the Public Service Commission.

**PUBLIC WATER:** A municipal, community or utility district water treatment and distribution system of a type approved by the State Department of Conservation and Environment and the Public Service Commission.

**ROADWAY:** The actual road surface including necessary road shoulders and drainage facilities including ditches and curbs and gutters, which is used to transport motor vehicles.

**SANITARY LANDFILL:** An area or site utilized by a public or private entity for disposal of solid waste or refuse in a manner which meets the regulations imposed upon the operation and maintenance of sanitary landfill sites by the State Department of Conservation and Environment.

**SAUNA:** An establishment or place primarily in the business of providing a steam bath or massage service. **(Added by Ordinance 364, September 20, 2004)**

**SEXUAL CONDUCT:** The engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of any person for the purpose of arousing or gratifying the sexual desire of another person. **(Added by Ordinance 364, September 20, 2004)**

**SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration: **(Added by Ordinance 364, September 20, 2004)**

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

- (b) Physical contact between male and female persons and/or persons of the same sex, when one or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

**SEXUAL GRATIFICATION:** Means "SEXUAL CONDUCT" as defined in this ordinance. **(Added by Ordinance 364, September 20, 2004)**

**SEXUAL STIMULATION:** To excite or arouse the prurient interest or to offer or solicit acts of "SEXUAL CONDUCT" as defined in this ordinance. **(Added by Ordinance 364, September 20, 2004)**

**SIGN, BILLBOARD, OR OTHER ADVERTISING DEVICE:** Any structure or part thereof or device attached thereto, or represented thereon, which shall display or include any letter, words, model, banner, flag, pennant, insignia, or any representation used as, or which is in the nature of, an announcement, direction, or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit.

**Advertising Sign:** A sign which directs attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises if at all.

**Billboard:** A type of advertising sign having more than one hundred (100) square feet of display surface which is either erected on the ground, or attached to or supported by a building or structure.

**Business Sign:** A sign which directs attention to the business or profession conducted on the premises.

**Flashing Sign:** Any illuminated sign, whether stationary, revolving, or rotating, which exhibits changing light or color effects, provided that revolving or rotating signs which exhibit no changing light or color effects other than those produced by revolution or rotation, shall be deemed flashing signs only if they exhibit sudden or marked changes in such light or color effects.

**Ground Sign:** A sign supported by a pole, uprights, or braces on the ground.

**Illuminated Sign:** A sign designed to give forth any artificial light or reflect such light from an artificial source.

**Indirect Illumination Sign:** Any illuminated non-flashing sign whose illumination is derived entirely from an external artificial source and is so arranged that no direct rays of light are projected from such artificial source into residences or streets.

**Marquee Sign:** A projecting sign attached to or hung from a marquee and said marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such a canopy or covered structure extends beyond the building, building line, or property line.

**Off-Premises Sign:** A sign relating to a product, service, or establishment that is not on the premises on which the sign is located.

**On-Premises Sign:** A sign relating to a product, service, or establishment that is on the premises on which the sign is located.

**Pole Sign or Banjo Sign:** A type of ground sign at least ten (10) feet above the ground supported on a single post or pole, most commonly associated with gasoline service stations.

**Roof Sign:** A detached sign supported upon the roof or wall of a building.

**Temporary Sign:** Temporary signs shall include any sign, banner, pennant, valance, or advertising display constructed of wood, metal, cloth, canvas, light fabric, cardboard, wallboard, or other light material, with or without frames, where either by reason of construction, or purpose of sign is intended to be a display for a short period of time only.

**Wall or Flat Sign:** Any sign erected parallel to the face or on the outside wall of any building which projects out at any angle therefrom, and projects more than twelve (12) inches beyond the face of such wall.

**SPECIAL EXCEPTION:** A use which is specifically permitted if the owner can demonstrate to the satisfaction of the Board of Zoning Appeals that it will meet certain standards, enumerated safeguards, or qualifying conditions.

**SPECIFIED ANATOMICAL AREAS:** Is defined as follows: **(Added by Ordinance 364, September 20, 2004)**

- (a) Less than completely and opaquely covered:
  - (1) Human genitals;
  - (2) Pubic region;
  - (3) Buttocks; and
  - (4) Female breasts below a point immediately above the top of the areola.
- (b) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:** Is defined as follows: **(Added by Ordinance 364, September 20, 2004)**

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation; sexual intercourse or sodomy;
- (c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts;
- (d) Flagellation or torture in the context of a sexual relationship;
- (e) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;

- (f) Erotic touching, fondling or other such contact with an animal by a human being; or
- (g) Human excretion, urination, menstruation, vaginal or an irrigation as part of or in connection with any activities set forth in "a" through "f", above.

**SPECIFIED SERVICES:** Massage services, private dances, private modeling, acting as an "escort" as defined in this ordinance, and any other live "ADULT ENTERTAINMENT" as defined in this ordinance. **(Added by Ordinance 364, September 20, 2004)**

**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 between the topmost floor and the roof which is used for human occupancy in which the floor area with eight (8) feet or more head clearance equals fifty (50) percent or more of the floor area of the next story below. Provided, it is not used as a dwelling unit, a top floor in which the floor area with eight (8) feet or more of head clearance equals less than fifty (50) percent of the floor area of the story next below shall be a "half-story." A basement shall be considered as a story if more than half of its height is above the average ground level, from which the "height of a building" is measured, or if it is used for commercial purposes.

**STREET:** A public roads highway, or thoroughfare which constitutes, or is designed to constitute, the main access to more than one lot, and which has been legally dedicated and accepted for public use.

**STRUCTURE:** Any combination of materials, including buildings, constructed or erected, the use of which requires location on the ground or attachment to anything having location on the ground, and including among other things, signs, billboards, and fences.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either: (1) before the repair or improvements; or (2) before the damage occurred. Structural improvement, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or (2) any alteration or restoration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**TOXIC MATERIALS:** Materials (gaseous, liquid, solid, particulate) which is capable of causing injury to living organisms by chemical reaction even when present in relatively small amounts.

**TRAVEL TRAILER:** A vehicular, portable structure designed as a temporary dwelling for travel, recreation, and vacation uses.

**TRAVEL TRAILER PARK:** A plot of land designed and equipped to accommodate travel trailers for short periods of time.

**USE:** The purpose for which land or a building or other structure is designed, arranged or intended, or for which it is or may be occupied or maintained.

**YARD:** An open space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings from the ground to the sky except as otherwise provided in this ordinance, provided that accessory buildings may be located in a rear yard.

**YARD, FRONT:** The yard extending across the entire width of the lot between the nearest part of the principal building, including porches, and the front lot line.

**YARD, REAR:** The yard extending across the entire width of the lot between the nearest part of the principal building, including porches, and the rear lot line.

**YARD, SIDE:** The required space unoccupied except as herein provided, measured between the side lot line and the nearest point of the principal building, between the front yard and the rear yard.

**ARTICLE III**  
**GENERAL PROVISIONS**

**SECTION**

- 3.010 Scope
- 3.020 Only One (1) Principal Building on Any Lot
- 3.030 Lot Must Abut a Public Street
- 3.040 Rear Yard Abutting a Public Street
- 3.050 Corner Lots
- 3.060 Future Street Lines
- 3.070 Reduction in Lot Area Prohibited
- 3.080 Obstruction to Vision at Street Intersection Prohibited
- 3.090 Access Control
- 3.100 Accessory Use Regulations
- 3.110 Buffer Strips
- 3.120 Standards for Telephone, Telegraph, and Communications  
Transmitter Stations and Towers
- 3.130 Requirements Governing Adult Oriented Establishments

**3.010 SCOPE**

For the purpose of the Zoning Ordinance, there shall be certain general provisions which shall apply, except as specifically noted, to the Town as a whole.

**3.020 ONLY ONE (1) PRINCIPAL BUILDING ON ANY LOT**

Only one (1) principal building and its customary accessory buildings may hereafter be erected on any residential lot. This provision does not prohibit apartments, multi-family dwellings mobile home parks or other similar complexes.

**3.030 LOT MUST ABUT A PUBLIC STREET**

No building shall be issued and no building shall be erected on a lot which does not abut at least one (1) publicly approved and accepted street for a distance of at least fifty (50) feet, provided however, that lots fronting upon cul-de-sacs require frontage of only twenty-five (25) feet.

**3.040 REAR YARD ABUTTING A PUBLIC STREET**

When the rear yard of a lot abuts a public street, all structures built in the rear yard shall observe the same setback from the street right-of-way 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 (25) feet 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.

**3.050 CORNER LOTS**

The side yard setback requirements for corner lots shall be the same as the front setback requirements for the next adjacent lot fronting on the street that the side yard of the corner lot faces.

### **3.060 FUTURE STREET LINES**

For the purpose of providing adequate space for the future widening of streets, required setbacks, or front yards shall be determined by the rights-of-way as shown on the most current official Westmoreland Major Thoroughfare Plan.

### **3.070 REDUCTION IN LOT AREA PROHIBITED**

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that its yard, lot area per family, lot width, and building area, or other requirements of the Zoning Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

### **3.080 OBSTRUCTION TO VISION AT STREET INTERSECTION PROHIBITED**

On a corner lot in any district within the area formed by the center lines of the intersecting or intercepting streets and a line joining points on such center lines at a distance of seventy-five (75) feet from their intersection, there shall be no obstruction to vision between the height of three and one-half (3 1/2) feet and a height of ten (10) feet above the average grade of each street at the center line, thereof. The requirements of this section shall not be construed to prohibit any necessary retaining wall.

### **3.090 ACCESS CONTROL**

In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict by reducing the points of contact, the following regulations shall apply:

- A. A point of access for vehicles onto a street shall not exceed thirty (30) feet in width. All points of access shall be so constructed as to provide for proper drainage.
- B. There shall be no more than two (2) points of access to any one public street for each four hundred (400) feet of lot frontage, or fraction thereof, provided, however, that lots less than one hundred (100) feet in width shall have no more than one point of access to any one public street.
- C. No point of access shall be allowed within twenty-five (25) feet of the right-of-way line of any public intersection.
- D. No curbs on town streets or right-of-way shall be cut or altered without written approval of the Westmoreland Town Building Inspector or if a state highway, a permit must also be obtained from the Tennessee Department of Transportation.
- E. Where two (2) driveways are provided for one lot frontage, the clear distance between the driveways shall not be less than twenty-five (25) feet.
- F. Cases requiring variances relative to the above provisions due to topographic limitations shall be heard and acted upon by the Board of Zoning Appeals, provided, further, that no curb cuts for off-street automobile storage or parking spaces shall be permitted where the arrangement would require that vehicles back directly onto a public street.

### **3.100 ACCESSORY USE REGULATIONS**

The use of land, buildings, and other structures permitted in each of the districts established by this Ordinance are designed by listing the principal uses. In addition to such principal uses, accessory uses which are customarily incidental to the permitted principal uses are also permitted in each district. Each accessory use shall:

- A. Be customarily incidental to the principal use established on the same lot.
- B. Be subordinate to and serve such principal use.
- C. Be subordinate in area, intent, and purpose to such principal use.
- D. Contribute to the comfort, convenience, or necessity of users of such principal use.

### **3.110 BUFFER STRIPS**

Where a use is established in areas zoned nonresidential which abuts at any point upon property zoned residential, the developer of said use may at the discretion of the Planning Commission or Board of Zoning Appeals be required to provide a buffer strip as defined herein at the point of abutment.

### **3.120 STANDARDS FOR TELEPHONE, TELEGRAPH, AND COMMUNICATIONS TRANSMITTER STATIONS AND TOWERS (Added by Ordinance \_\_\_\_, March \_\_\_\_, 1999)**

All transmitter stations, including towers and operating equipment located within Westmoreland shall adhere to the following standards:

#### **3.120.1 Developmental Requirements**

1. All towers with a height of one hundred fifty (150) feet (from base to top) or more shall be constructed in accordance with Electronic Industries Association ("EIA") standard 222E-1996, utilizing a wind rating of ninety miles per hour (90 mph) plus ice loading for Westmoreland, Tennessee.
2. All towers shall be set back from all property lines and leasehold lines a distance that is equal to:
  - (a) for a guyed tower, thirty (30) percent of its maximum height, and
  - (b) for a self-supporting tower, sixty (60) percent of its maximum height.
3. Fencing. The entire site in either fee-simple ownership or leasehold procurement containing such tower and equipment shall be enclosed with a fence no shorter than six (6) feet in height. Access gates will be locked at all times when the site is not occupied.
4. Screening. Where the tower site abuts or is contiguous to any Residential District, there shall be provided a continuous, solid screening, and it shall be of such plant materials as will provide a reasonable year-round evergreen screening. Screening, as required herein, shall be not less than four (4) feet in height at the time of planting, and shall be permanently maintained by the leaseholder or owner of the subject property. (See definition of planted buffer strip for the required specifications).



### **3.120.2 Application Requirements**

An application to develop a Transmission and Communications Tower shall include as minimum the following:

1. All site plan information cited in Section 7.030 of this Ordinance, which is deemed applicable by the Planning Commission.
2. A “Determination of No Hazard” from the Federal Aviation Administration, as well as all required Federal Communications Commission permit information.
3. The names, addresses, and telephone numbers of all owners of other Communications/Transmission Towers or Support Structures within a one-half (1/2) mile radius of the proposed new Tower site, including town-owned property.
4. An affidavit attesting to the fact that the project applicant made diligent, but unsuccessful, efforts to install or collocate the project applicant’s Telecommunications Facilities on town-owned Towers or useable Antenna Support Structures located within a one-half (1/2) mile radius of the proposed Tower site.
5. An affidavit attesting to the fact that the project applicant made diligent, but unsuccessful, efforts to install or collocate the project applicant’s Telecommunications Facilities on Towers or useable Antenna Support Structures owned by other persons located within a one-half (1/2) mile radius of the proposed Tower site.
6. Written technical evidence from an engineer(s) that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another person’s Tower or useable Antenna Support Structures owned by other persons located within one-half (1/2) mile radius of the proposed Tower site.

### **3.130 REQUIREMENTS GOVERNING ADULT ORIENTED ESTABLISHMENTS (Section Added by Ordinance 364, September 20, 2004)**

#### **3.130.1 Intent**

A basic purpose of zoning is to separate uses that are incompatible. Some categories of adult oriented uses have little if any, consequential results, while other have significant land-use impacts.

A proliferation of adult oriented establishments may lead to a negative perception of a neighborhood or the entire Town. A negative perception of this kind can lead to declining property values and physical deterioration. There is evidence that concentrations of such adult oriented establishments often result in an increase in crime, particularly prostitution, drugs, transient habitation or activity, assault and sex related crimes. Zoning is one of the primary means by which we protect that sometimes difficult to define concept of “quality of life.”

#### **3.130.2 Purpose**

The provisions and criteria for the review of adult oriented establishments are established to preclude their concentration which may have a deleterious effect upon the use and

enjoyment of adjacent protected areas. Because of their operational characteristics, special regulations ensure that these adverse effects will not contribute to blighting or downgrading the surrounding neighborhoods. These special regulations are itemized in this section.

The primary regulation purposes to prevent a concentration of adult oriented establishment uses in one area, and of providing a buffer zone between such businesses and surrounding properties. The regulations have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative adult oriented materials. It is neither the intent nor effect of these regulations to restrict or deny access by adults to adult oriented materials protected by the First Amendment to the United States Constitution, or to deny access by the distributors and exhibitors of adult oriented entertainment to their intended market.

A. Criteria for Review

1. No establishment shall be located within two thousand (2,000) feet (measured from property to property line) of another adult oriented establishment.
2. No such business shall be located within three thousand (3,000) feet (measured from property line to property line) of any educational, child or child-care, cultural, religious, library, health care, or recreational activities including pool or billiard halls, government buildings, parks and commercial malls.
3. No such establishment shall be located within two thousand (2,000) feet (measured from property line to property line) of a boundary of a residential district (R-1; R-2; R-3), or a lot devoted to residential use.
4. No such business shall be located within two thousand (2,000) feet (measured from property line to property line) of a commercial district (C-1, C-2).
5. The determined distances are spacing requirements and are not subject to variances by the Board of Zoning Appeals.
6. A duly publicized Public Hearing shall be held on the application. A duly publicized Public Hearing is one having met the minimum fifteen (15) day advertisement requirement in a newspaper of general circulation and paid for by the applicant.
7. A two-thirds (2/3) majority approval of the full Westmoreland Town Council sitting at a regularly scheduled meeting shall be required for final approval.
8. Sign and advertising shall be regulated as per Article IV, Section 4.060, Standards for Signs, Billboards and Other Advertising Structures, and in addition,
9. Sign messages shall be limited to non-lewd verbal description of material or services provided on the premises and may not include any graphic or pictorial depiction of material or services rendered on the premises.

10. Messages or signs which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or live presentation of services or persons performing services offered on the premises.
11. Only one (1), sixteen (16) square foot (e.g., 4 x 4; 2 x 8) sign on the structure is permissible.
12. Only one (1) fluorescent light on the sign is permissible.
13. Neon signs and billboards are prohibited on the structure or on the premises (lot on which the establishment is located), as per Article IV, Section 4.060.
14. Free standing illuminated signs on the premises (lot on which the establishment is located) are prohibited.
15. Intermittent illumination or flashing signs on the structure or the premises (lot on which the establishment is located) are prohibited.

B. Planning Commission Approval Required

No building permit for construction of any building or the alteration of the exterior of any building or the addition to the original building shall be issued until after the plan for such construction, alteration or addition has been submitted to the Planning Commission for approval or disapproval. Such plan shall show the proposed site development and a plan relative to building site, design and landscaping treatment; access; on-site traffic circulation; maneuvering and parking spaces as per Article III, Sections 3.080, Obstruction to Vision at Street Intersection Prohibited and 3.090, Access Control and Article IV, Section 4.010, Off-Street Parking Requirements; Section 4.020, Off-Street Loading and Unloading Requirements.

C. Landscaping Provision

Each site shall be developed with not less than twenty (20) percent of its total area landscaped with a combined arrangement of trees, green shrubbery, grass, and/or other planting exclusive of landscaping in parking areas. Buffering on all sides excluding the side fronting the public road for ingress and egress of the lot, shall be installed consisting of view impairing perennial bushes measuring six (6) feet at maturity. Solid waste storage and disposal areas shall be screened from public view and shall be maintained in compliance with the Sumner County Health Department regulations. Ground level electrical transformers, air conditioning equipment and similar facilities shall be screened from public view. The landscaping provisions to this section may be varied or reduced if the proposed landscaping plan provides for unique and innovative landscaping treatment that, in the opinion of the Planning Commission meets the intent and purpose of this section.

D. Building and Site Design

1. All building and site design, including those to alterations, additions and remodeling are subject to review and approval of the Planning Commission.
2. Accessory building, markings, and enclosures shall be consistent in design and quality of materials used with the building to which they are accessories.

E. Additional Regulations

1. Debris and Waste: No cut trees, lumber, debris, junk, rubbish or other waste material of any kind shall be buried in any land or deposited on any lot or public way at the time of the issuance of a certificate of occupancy for the lot; and the removal of such waste shall be required prior to the issuance of any certificate of occupancy.

At all times, the lot housing the adult oriented establishment shall be kept clean and clear of any cut trees, lumber, debris, junk, rubbish or other waste material of any kind.

## ARTICLE IV

### SUPPLEMENTARY PROVISIONS APPLYING TO SPECIFIC DISTRICTS

#### SECTION

- 4.010 Off-Street Parking Requirements
- 4.020 Off-Street Loading and Unloading Requirements
- 4.030 Temporary Use Regulations
- 4.040 Customary Incidental Home Occupations
- 4.050 Gasoline Service Station Restrictions
- 4.060 Standards for Signs, Billboards, and Other Advertising Structures
- 4.070 Development Standards for Automobile Wrecking, Junk and Salvage Yards
- 4.080 Development Standards for Mobile Home Parks
- 4.090 Development Standards for Multi-Family Dwellings
- 4.100 Development Standards for Attached Dwellings
- 4.110 Development Standards for Animal Hospitals, Kennels and Pounds

#### 4.010 OFF-STREET PARKING REQUIREMENTS

Off-street automobile storage or standing space shall be provided on each lot upon which any of the following uses are hereafter established. One (1) vehicle space shall be (9 feet x 18 feet in size) and such space shall be provided with vehicular access to a street or alley. The number of parking spaces provided shall meet the minimum requirements for the specific uses as set forth below:

- A. **Single-Detached Dwelling and Duplex:** Not less than two (2) spaces for each dwelling unit.
- B. **Apartment Dwelling:** Not less than one and one-half (1 1/2) spaces per dwelling unit.
- C. **Boarding Houses and Rooming Houses:** Not less than one (1) space for each (1) room to be rented.
- D. **Semi-Detached and Attached Dwelling:** Not less than two (2) spaces per dwelling unit.
- E. **Other Dwelling Units:** Not less than two (2) spaces per dwelling unit.
- F. **Hotels, Motels and Other Tourist Accommodations:** Not less than one (1) space for each room to be rented plus one (1) additional space for each three (3) employees.
- G. **Any Auditorium, Church, Stadium, or Other Place of Public Assembly:** Not less than one (1) space for each four (4) seats provided in such places of assembly. For all places of public assembly where seating is not a measure of capacity, such as clubhouses, funeral parlors, etc., at least one (1) space for each two hundred (200) square feet of floor space devoted to that particular use shall be provided.

- H. **Manufacturing, Industrial or Wholesaling Use:** Not less than one (1) space for each five (5) employees anticipated during maximum production, with a minimum of five (5) spaces provided for any establishment. For establishments maintaining space for the sale of products at retail, there shall be provided one (1) parking space for each five hundred (500) square feet of floor area devoted to retail sales.
- I. **Office and Professional Buildings:** Not less than one (1) parking space for each three hundred (300) square feet of office space located on the first floor, plus one parking space for each five hundred (500) square feet of floor space (or fraction thereof) above or below the first or main floor; provided that office space constructed or arranged on the floors above or below the first floors of retail or other business establishments and not used in connection therewith, shall fall within the meaning of this subsection.
- J. **Retail Sales and Service Establishments:** Not less than one (1) parking space for each two hundred and fifty (250) square feet, or fraction thereof, of floor space.
- K. **Medical or Dental Clinic:** Not less than four (4) spaces per doctor, plus one (1) additional space for each two (2) employees.
- L. **Service Stations:** Not less than five (5) spaces for grease rack or service bay, or one (1) space for each fourteen hundred (1,400) square feet of lot area or fraction thereof, whichever is greater.
- M. **Restaurants:** Not less than one (1) space per one hundred fifty (150) square feet of floor area, plus one (1) space for each two (2) employees. For drive-in restaurants, one (1) space per one hundred (100) square feet of floor area.
- N. **Other:** For buildings and uses not listed, the off-street parking requirements shall be determined by the Board of Zoning Appeals.

#### **4.011 Certification of Minimum Parking Requirements**

Each application for a building permit shall include information as to the location and dimensions of off-street parking spaces and the means of ingress and egress to such spaces. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this section to be are met.

#### **4.012 Combination of Required Parking Space**

The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night or on Sundays.

#### **4.013 Remote Parking Spaces**

If the off-street parking spaces required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred (400) feet of the main entrance to such principal use, provided such land is in the same ownership or lease as the principal use. Such land shall be used for no other purpose so long as no other adequate provision of parking space, meeting the requirements of this Ordinance, has been made for the principal use.

**4.014 Extension of Parking Area into a Residential District**

Required parking space may be extended one hundred (100) feet into a residential district, provided that:

- A. The parking area adjoins a commercial or industrial district.
- B. The parking spaces in this area have their only access to or front upon the same street as the property in the commercial or industrial districts for which it provides the required parking spaces.
- C. The parking space is separated from abutting properties in the residential districts by a buffer strip.

**4.015 Requirements for Design of Parking Lots**

- A. Except for parcels of land devoted to one- and two-family residential uses, all areas devoted to off-street parking shall be so designed and be of such size that no vehicle is required to back onto a public street to obtain egress.
- B. Each parking space shall be no less than nine feet x eighteen feet (9' x 18') in size.
- C. Entrances and exits for all off-street parking lots shall comply with the requirements of Section 3.090, of this Ordinance.
- D. The parking lot shall be designed in such a manner as to provide adequate drainage and to eliminate the possibility of stagnant pools of water.
- E. All off-street parking areas shall be surfaced with asphalt or concrete material and so constructed to provide for adequate drainage for both on and off-site areas and to prevent the release of dust. In no case shall drainage be allowed to cross sidewalks. **(Added by Ordinance 358-A, November 17, 2003)**

**4.020 OFF-STREET LOADING AND UNLOADING REQUIREMENTS**

Every building or structure hereafter constructed and used for industry, business or trade involving the receiving or distribution of vehicles, materials, or merchandise shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public or private alley, or if there is no alley, to a public street. The minimum required spaces for this provision shall be based on the total usable floor area of each principal building according to the following table:

<b><u>Total Usable Floor Area for Principal Building</u></b>	<b><u>Spaces Required (See ARTICLE II, for Definition)</u></b>
<b>0 to 4,999 square feet</b>	<b>One (1) space</b>
<b>5,000 to 20,000 square feet</b>	<b>Two (2) spaces</b>
<b>Over 20,000 square feet</b>	<b>One (1) space for each additional 20,000 square feet</b>

The Board of Zoning Appeals may reduce or increase this requirement in the interest of safety where unusual or special conditions are due consideration.

#### 4.030 TEMPORARY USE REGULATIONS

The following regulations are necessary to govern the operation of certain necessary or seasonal uses, nonpermanent in nature. Application for a Temporary Use Permit shall be made to the Building Inspector. Said application shall contain a graphic description of the property to be utilized and a site plan, a description of the proposed use, and sufficient information to determine yard requirements, setbacks, sanitary facilities, and parking space for the proposed temporary use. The following use are deemed to be temporary uses and shall be subject to the specific regulations of any district in which such use is located:

- A. **Carnival or Circus**: May obtain a Temporary Use Permit in the C-1, C-2, or I-1 Districts; however, such permit shall be issued for a period of not longer than fifteen (15) days. Such use shall only be permitted on lots where adequate off-street parking can be provided.
- B. **Christmas Tree Sale**: May obtain a thirty (30) day Temporary Use Permit for the display and sale of Christmas trees on open lots in any district.
- C. **Temporary Buildings**: In any district, a Temporary Use Permit may be issued for contractor's temporary office and equipment sheds incidental to construction project. Such permit shall not be valid for more than one (1) year, but may be renewed for one (1) year extensions; however, not more than three (3) extensions for a particular use shall be granted. Such use shall be removed immediately upon completion of the construction project, or upon expiration of the Temporary Use Permit, whichever occurs sooner.
- D. **Religious Tent Meetings**: In any district, a Temporary Use Permit may be issued for a tent or other temporary structure to house a religious meeting. Such permit shall be issued for not more than a thirty (30) day period. Such activity shall be permitted only on lots where adequate off-street parking can be provided.
- E. **Temporary Dwelling Unit in Cases of Special Hardship**: In any residential district, a Temporary Use Permit may be issued to place a mobile home temporarily on a lot in which the principal structure was destroyed by fire, explosion or natural phenomena. The purpose of such placement shall be to temporarily provide shelter for only the residents of the principal structure during the period of reconstruction and to prevent an exceptional hardship on the same. Placement of such temporary structure must not represent a hazard to the safety, health, or welfare of the community. An applicant for a Temporary Use Permit as provided under this subsection must produce a written statement from the Westmoreland Utilities System, and the Sumner County Health Department approving the water supply, sewage disposal and electrical systems of the temporary structure. Such a permit may be initially issued for nine (9) months. A permit may be renewed for up to six (6) months at a time, the total time for all permits not exceeding a total of twenty-one (21) months.

#### 4.040 CUSTOMARY INCIDENTAL HOME OCCUPATIONS

A customary incidental home occupation is a gainful occupation or profession (including the professional office of an architect, artist, dentist, engineer, lawyer, physician and the like, barber, beauty and tailor shops) or the accommodation of not more than two (2) boarders conducted by



members of a family residing on the premises or only one person in addition to those persons residing therein and conducted entirely within the principal dwelling unit. In connection with a home occupation, no stock in trade shall be displayed outside the dwelling, and no alteration to any building indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a residential unit, including permitted accessory buildings. An announcement sign of not more than four (4) square feet in area is permitted.

When questions arise regarding the legality of specific home occupations, the Board of Zoning Appeals shall determine in which zone said home occupation is in compliance with the district in which said home occupation is located. However, activities such as dancing instruction, band instrument instruction, except piano instruction, tea rooms, tourist homes, real estate offices, convalescent homes, mortuaries, animal clinics, retail sales business, or any other activity deemed by the Board to be incompatible with the district or a potential nuisance to the surrounding area shall not constitute an acceptable home occupation.

#### **4.050 GASOLINE SERVICE STATION RESTRICTIONS**

The following regulations shall apply to all gasoline service stations:

- A. There shall be a building setback from all street right-of-way lines of a distance of not less than forty (40) feet, except for canopies designed to cover the gasoline pump islands.
- B. Gasoline pumps shall not be located closer than fifteen (15) feet to any street right-of-way line.
- C. Sign requirements as established in Article IV, Section 4.060, shall be met.

#### **4.060 STANDARDS FOR SIGNS, BILLBOARDS, AND OTHER ADVERTISING STRUCTURES**

These conditions are established as a reasonable and impartial method of regulations advertising structures in order to insure light, air, and open space, to reduce hazards at intersections, and to protect property values of the entire community. The regulations for signs, billboards, and other advertising structures are enumerated below:

- A. In any zoning district, the following general regulations shall apply as well as the regulations in Chapter 23, "Sign and Outdoor Displays," of the Standard Building Code:
  - 1. No sign shall be erected or maintained where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal, device, or emergency vehicle.
  - 2. No illuminated sign shall be permitted within fifty (50) feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property.
  - 3. No billboard or ground sign shall be erected to exceed the maximum height limitation for the district in which it is located. No billboard shall exceed fifty (50) feet in length.

4. Billboards shall be erected or placed in conformity with the side, front, and rear yard requirements of the district in which located. However, no billboard shall be erected or placed closer than within one hundred (100) feet of any Residential District.
5. On the premises outdoor advertising signs, including flashing or intermittent illumination, shall be a minimum of ten (10) feet from the public right-of-way.
6. Signs erected and overhanging any sidewalk must be placed at least nine (9) feet above the sidewalk and may extend over the sidewalk a distance equal to two-thirds (2/3) the width of the sidewalk, but in no case exceeding ten (10) feet.
7. Professional signs and signs for home occupations shall not exceed four (4) square feet in area in the Residential Districts.
8. Temporary Signs and Posters Are Subject to the Following Regulations:
  - a. Each sign shall not exceed five (5) square feet in area, excluding banners.
  - b. The signs shall not be located closer together than five hundred (500) feet.
  - c. Such signs shall not be nailed to trees, fence posts or public utility poles and shall not be located in the public right-of-way, excluding banners.
9. In Any District, the Following Signs Shall Be Permitted:
  - a. For parking areas, entrance and exit signs not exceeding four (4) square feet in area and not more than one (1) sign not more than sixteen (16) square feet in area identifying or designating the conditions of the use of such parking area.
  - b. Nonilluminated "For Sale" or "For Rent" signs not exceeding four (4) square feet in area.
  - c. One (1) sign not more than sixteen (16) square feet in area giving the names of the contractors, engineers, or architects, during construction of a building.
  - d. Signs established by, or by order of, any governmental agency.
  - e. For special events of public interest, one (1) sign not over thirty-two (32) square feet in area.
  - f. Flags or emblems of political, civic, philanthropic, educational or religious organizations.

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

B. In all Residential Districts, the Following Regulations Shall Apply:

1. Nameplates indicating name, address, house number, announcement of boarders or roomers, or customary home occupations are permitted.
2. For multi-family dwellings and mobile home parks, identification signs not exceeding sixteen (16) square feet in area are permitted.
3. Church, school, or public building bulletin boards or identification signs, not exceeding twenty (20) square feet in area are permitted.
4. Flashing or intermittent illumination is prohibited.
5. Billboards and other advertising structures are prohibited.

C. In all Commercial District, the Following Regulations Shall Apply:

1. Bulletin boards or identification signs, not exceeding sixty (60) square feet in area, shall be permitted for public recreation uses, community facilities, hospitals, and clinics.
2. Business signs shall be permitted subject only to the restrictions in Section 4.060, A, of this Ordinance. All ground signs shall be located within the property line.
3. For other permitted uses, one business sign not exceeding one (1) square foot of surface for each two (2) lineal feet of lot fronting on a public street, will be permitted. Such sign shall be directly related to the activity conducted on said premises.
4. Billboards and other outdoor advertising structures are permitted, subject to the general restrictions set forth in Section 4.060, A.

D. In all Industrial Districts, the Following Regulations Shall Apply:

1. Business signs shall be permitted (which relate to the business) on the premises. Such signs shall be located not closer than one-half (1/2) the required building setback from all property lines.
2. Flashing or intermittent illumination is prohibited.
3. Billboards and outdoor advertising structures are permitted.

**4.070 DEVELOPMENT STANDARDS FOR AUTOMOBILE WRECKING, JUNK AND SALVAGE YARDS**

Because of the nature and character of their operations, automobile wrecking and salvage yards, junk yards, and similar uses of land can have a decidedly detrimental effect upon surrounding properties.

Salvage and wrecking yards tend to create problems of noise, dust, traffic, and health hazards, and may adversely affect property value by their general appearance. The following standards shall be used as a guide in evaluating whether proposed land uses, such as those outlines above, will have properly minimized their objectionable characteristics:

- A. All motor vehicles stored or kept in such yards shall be so kept that they shall not catch and hold water in which mosquitoes may breed and so that they shall not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.
- B. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than three hundred (300) feet from any established residential zone.
- C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within and enclosed opaque fence, screen, or wall, excepting driveway areas, from eight (8) to twelve (12) feet in height. Storage between the road or street and such fence, screen or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.
- D. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to public health or safety.
- E. Off-Street Parking: As regulated in Article IV, Section 4.010.
- F. Ingress and Egress: The number of vehicular access driveways permitted on any single street frontage shall be limited to:
  - 1. One (1) driveway where the parcel to be used has a maximum road or street frontage of one hundred (100) feet or less.
  - 2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet. Driveways used for ingress and egress shall be limited to twenty-five (25) feet in width maximum, exclusive of curb returns.
- G. Application for Automobile Wrecking, Junk, or Salvage Yard Permit: No person shall own or maintain an automobile wrecking, junk, or salvage yard within Westmoreland until he has secured a permit from the Westmoreland Board of Zoning Appeals. An application for said permit shall be filed in accordance with the requirements of Article VII, Section 7.060, of this Ordinance, and shall be accompanied by a detailed site plan, a schedule for construction, and any other information as herein required. Said application shall be submitted along with any plans and schedules. The Board shall vote to approve or disapprove the application in accordance with the time schedule set forth in Section 7.060.

#### **4.080 DEVELOPMENT STANDARDS FOR MOBILE HOME PARKS**

The establishment of these provisions is intended to supplement the State Health Regulations, established by the “Tennessee Trailer Court Act of 1957”, Section 53-3201 through 53-3220, Tennessee Code Annotated, by ensuring a minimum standard of site development for mobile home

parks where permitted as a conditional use within a zoning district. It is intended that within any zoning district where permitted, mobile home parks shall be excluded from certain regulations relating to uses other than mobile home parks but that such use shall be subject to the general provisions of the district with regard to the uses permitted within the zoning district in which such use is located. Additionally, it is intended that in any instance of a conflict between the provisions of these regulations and the general provisions of the district as they relate to mobile home parks, these regulations shall apply.

A. Permit

1. Application for Permits

The application for a "mobile home park permit" shall be filed with and issued by the Sumner County Health Department as authorized by Section 53-3203, of the Tennessee Code Annotated. However, the construction or extension of a mobile home park may not commence until a Zoning Permit has been issued for a mobile home park.

2. Site Plan Required

A Zoning Permit may only be issued for construction or extension of a mobile home park upon submission and approval by both the Planning Commission and the Board of Appeals of a site development plan meeting the minimum requirements of Section 7.030, A, 2.

B. Development Standards

1. General

A mobile home park shall be located only as a special exception within those districts where permitted.

No part of the park shall be used for nonresidential purposes, except such uses as are required for the direct servicing and well being of park residents and for the management and maintenance of the park.

Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to accessive smoke, dust, and noise. No portion of a mobile home lot or stand shall be subject to flooding.

2. Minimum Development Size

No mobile home park shall be approved on site which contains less than twice the minimum lot area for the district in which the use is to be located.

3. Density

The number of mobile homes permitted within any mobile home park shall be determined as follows:

- (a) From the gross acreage located within the site of the mobile home park shall be subtracted:
  - (1) Any portion subject to flooding (taking in to account any filling permitted);
  - (2) Ten (10) percent of the remainder for streets.
- (b) The remaining acreage shall then be divided by sixty-five hundred (6,500) square feet. The result indicates the maximum number of mobile homes permitted on the site.

4. Yards

Along the entire periphery of a mobile home park, yards meeting the basic district regulations shall be provided. Within the interior portion of a mobile home park, no yards, except as required to meet other provisions set forth in this section, are required.

5. Spacing of Mobile Homes and Site Coverage

Mobile homes shall be so harbored on each space that there shall be at least a twenty-five (25) foot clearance between mobile homes; for mobile homes parked end-to-end, the end-to-end clearance may be less than twenty-five (25) feet, but not less than fifteen (15) feet.

There shall be a minimum distance of ten (10) feet between the nearest edge of any mobile home and an abutting access street.

Mobile home stands shall not occupy an area in excess of twenty-five (25) percent of the respective lot area. The total area occupied by the mobile home and its accessory structures shall not exceed fifty (50) percent of the respective lot area.

6. The Mobile Home Lot

The limits of each mobile home lot shall be marked on the ground by suitable means. Location of lot limits on the ground shall be the same as shown on accepted plans.

7. Mobile Home Stands

The mobile home stands shall be improved to provide adequate support for the placement and tie-down of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind or other forces acting on the structure. In addition, such stand shall comply with the publication of FHA "Minimum Property Standards for Mobile Home Parks", **May, 1977**, as amended.

8. Outdoor Living Area

Each mobile home lot shall be provided with an outdoor living and service area. Such area shall be improved as necessary to assure reasonable privacy and comfort. The minimum area shall be not less than three hundred (300) square feet with a minimum dimension of fifteen (15) feet.

C. Utilities and Other Services

1. Water Supply and Distribution System

Each mobile home park shall be served with a public water supply. Adequate fire protection shall be provided within each mobile home park.

2. Sewage Disposal

Each mobile home park shall be served by either public sewer or a system approved by the Sumner County Health Department.

3. Solid Waste Disposal System

Solid waste collection stands shall be provided for waste containers. Such stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.

4. Service Buildings

Service buildings, housing sanitation and laundry facilities, shall be permanent structures complying with all applicable ordinances and statutes regulating, buildings, electrical installations, and plumbing and sanitation systems.

D. Streets

1. General

All mobile home developments shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Such access shall be provided by streets, driveways, or other means.

2. Entrance Streets

Entrances to mobile home developments shall have direct connections to a public street and shall be designed to allow free movement to traffic on such adjacent public streets. No parking shall be permitted on the entrance street for a distance of one hundred (100) feet from its point of beginning.

3. Circulation

The street system should provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall be limited in length to one thousand (1,000) feet and their closed end shall be provided with an adequate turnaround.

4. Street Widths

One way with No Parking	12 feet
Two way with No Parking	20 feet

If parking is to be on street, a width of eight (8) feet is to be provided for each parking lane in addition to the street width shown above.

5. Surfacing Required

Streets are to be surfaced with a base of stone of a compacted depth of four (4) inches.

6. Visibility at Intersections

Visibility at intersections of streets shall be as set forth in Section 3.080, of this Ordinance.

E. Walks

1. General Requirements

All mobile home developments shall be provided with safe, convenient, all-season pedestrian accesses of adequate width for intended use. Sudden changes in alignment and gradient shall be avoided.

2. Common Walk System

A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three (3) feet.

3. Individual Walks

All mobile home stands shall be connected to common walks, streets, driveways and parking spaces by individual walks. Such individual walks shall have a minimum width of two (2) feet.

F. Recreation Area

Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units. Attractive outdoor sitting areas shall be provided, appropriate in size, type and number to the needs of the residents.

Well-equipped playgrounds of adequate size and number shall be provided, where it is anticipated that children will occupy the premises.

G. Buffer and Screening

A landscape buffer shall be provided along the perimeter of the site boundaries not less than fifteen (15) feet in width, except that a minimum buffer area from any public street shall be no less than twenty (20) feet.



Within the landscaped buffer, a continuous fence six (6) to eight (8) feet high or landscaped screen shall be provided. Such fence shall be opaque and such screening shall be a year-round evergreen four (4) feet wide and at least four (4) feet high at the time of planting and expected to achieve a height of six (6) feet within three (3) years. No landscaped screen or fence shall be provided within fifteen (15) feet of any vehicular entrance and/or exit to the park.

H. Site Design

The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. The planting plan shall be submitted with the site development plan.

Existing trees, shrubs, evergreens and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.

I. Off-Street Parking

Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit the space is to serve.

**4.090 DEVELOPMENT STANDARDS FOR MULTI-FAMILY DWELLINGS**

The special provisions set forth herein are intended to provide design criteria for multi-family dwellings located on a single zone lot. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by Planning Commission review of the site plan required for all such development by Section 7.030, A, 2.

A. Design Criteria

The design criteria appearing below apply to all multi-family developments.

1. General

- (a) Each dwelling unit shall be provided with reasonable visual and acoustical privacy. Fences, walks, and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, screening of objectionable views or uses and the reduction of noise.
- (b) Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

- (c) The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings, and grounds and to screen out objectionable features. The planting plan shall be submitted with the site development plan.
- (d) Existing trees, shrubs, evergreens, and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.
- (e) Adequate recreation facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.
- (f) Attractive outdoor sitting areas shall be provided, appropriate in size, type, and number to the needs of the residents.
- (g) Well equipped playgrounds of adequate size and number shall be provided, where it is anticipated that children will occupy the premises.
- (h) All public streets located within any multi-family development shall meet the construction specifications set forth in the subdivision regulations.
- (i) The density, or number of dwelling units permitted within a given area, shall be as provided by the basic district regulations.
- (j) All dwelling units shall be so positioned as to assure the availability of adequate fire protection. The Fire Department shall adjudge the adequacy of protection.

2. Building Spacing

(a) Minimum Building Spacing

Space between buildings shall be one-half (1/2) of the sum of the heights of the buildings, but in no case shall the distance be less than twenty (20) feet.

(b) Minimum Distance to the Property Line

The minimum distance between the building and the property line shall be one-half (1/2) the height of the building, but in no case shall be less than twenty (20) feet.

3. Perimeter Requirements

If topographical or other barriers do not provide adequate privacy for existing uses adjacent to the proposed development, the Planning Commission may impose either of the following requirements:

- (a) Structures located on the perimeter of the proposed development must be set back by a distance sufficient to protect the privacy and amenity of adjacent existing uses, if applicable.
- (b) Structures located on the perimeter of the proposed development must be permanently screened in a manner which is sufficient to protect the privacy and amenity of adjacent existing uses. Such screening should be suitably landscaped with grass and/or ground cover, shrubs, and trees.

4. Access

Each multi-family dwelling shall be so located as to have direct access to a public street or to a private street approved for the dwelling. All structures shall be so located as to provide safe and convenient access for servicing, emergency access by fire, and other public safety vehicles, refuse collection and for required off-street parking.

5. Parking

(a) Space Requirements

As regulated in Article IV, Section 4.010.

(b) Grouped Parking Facilities

Off- street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit it is to serve. Where appropriate, common driveways, parking areas, walks and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges, and screening walls.

Any private drives, parking areas, or other vehicular ways used for common access for two (2) or more residents will be suitably paved and maintained as a condition of approval of the project.

6. Density and Minimum Lot Area

The number of dwelling units permitted shall not exceed twelve (12) per gross acre. A minimum development site of twenty four thousand (24,000) square feet is required for any multi-family complex.

**4.100 DEVELOPMENT STANDARDS FOR ATTACHED DWELLINGS**

The provisions set forth herein are intended to apply to all attached dwellings, as defined by this Ordinance, whether such units are popularly described as town houses, atrium houses, or by any other name. The specific provisions appearing below shall apply to all attached dwellings regardless of the district in which such may be located.

A. Design Criteria, General

It is intended that attached dwellings where they are permitted:

1. May be appropriately intermingles with other types of housing;
2. Shall not form long, unbroken lines of row housing; and
3. Shall constitute groupings making efficient economical, comfortable, convenient use of land and open space, and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

B. Design Criteria, Details

1. The density, or number of dwelling units permitted within a given areas, shall not exceed eight (8) unit per gross acre.
2. The minimum lot for any attached dwelling shall not be less than twenty four hundred (2,400) square feet.
3. The minimum development site required for construction of any detached dwelling is twenty four thousand (24,000) square feet.
4. The maximum lot coverage ratio set forth for the district may be exceeded for a given lot within a development of attached dwellings. However, such ratio shall apply to the project when considered in aggregate (i.e. total building coverage divided by total gross development site area). In any instance where a development may lie within two or more zoning districts the coverage ratio for each district shall apply to all development within it. No transfer of bulk or site coverage shall be permitted among zoning districts.
5. Minimum width for the portion of the lot on which an attached dwelling is to be constructed shall be twenty-two (22) feet.
6. Not more than six (6) contiguous dwelling shall be built in a row with the same or approximately the same front line, and not more than twelve (12) dwellings shall be contiguous.
7. For dwellings which are attached at both sides to other dwellings no side yard as such is required. However, each such unit shall on its own lot have one yard containing not less than five hundred (500) square feet. This yard shall be reasonably secluded from view of streets or from neighboring property and shall not be used for off-street parking or for any accessory buildings.

C. Open Space Requirements

1. Amount of Open Space Required

In general, the amount of common open space provided shall be equal to that portion of the site not utilized for lots, individually held parking areas and streets (either public or private).

2. Quality and Improvement of Common Open Space

No open area may be accepted as common open space under the provisions of this Section unless the location, shape, size, and character of the common open space is appropriate to the scale and character of the development considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. Any buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space having regard to its topography and unimproved condition.

If the site development plan provides for buildings, structures, and improvements, in the common open space of a value in excess of twenty-five thousand dollars (\$25,000) the developer must provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The Planning Commission may release the bond or other assurance when the building, structures, or improvements have been completed according to the development plan.

3. Provisions for Ownership, Improvement and Maintenance of Open Space and Recreation Areas

Adequate provision shall be made to insure the continued beneficial use of any common open area by the residents of the development. Open space shall serve the functions of providing space for recreation and amenity only. Any common area shall be transferred to the private maintenance trust at a time and in the manner specified by the Planning Commission as a condition of approval of the project.

D. Access

1. Every structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to a private street approved for said lot and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
2. Access and circulation shall adequately provide for fire fighting equipment, service deliveries, furniture moving vans, and refuse collection.
3. Pedestrian access shall be provided at the rear of each attached dwellings.

E. Walks

Street sidewalks and on-site walks shall be provided for convenient and safe access to all living units from streets, driveways, parking courts, or garages and for convenient circulation and access to all facilities.

F. Recreation Areas

Adequate recreational facilities for the residents of the project shall be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.

Attractive outdoor sitting areas shall be provided, appropriate in size, type, and number to the needs of the residents. Active recreation areas shall be provided which are appropriate for the needs of the residents. Activities may vary from horseback riding, and boating in large projects. Well equipped playgrounds of adequate size and number shall be provided where it is anticipated that children will occupy the premises.

G. Planting

The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds, and to screen out objectionable features. The planting plan shall be submitted with site plans.

H. Parking

1. Space Requirements:

As regulated in ARTICLE IV, SECTION 4.010.

2. Group Parking Facilities:

Off-street parking may be grouped in bays, either adjacent to streets or in the interior of blocks. Such parking areas shall generally be located in close proximity to the dwellings units they are designed to serve. At least one (1) parking space per dwelling unit shall be located so as to provide a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit the space is to serve. Where appropriate, common driveways, parking areas, walks, and steps shall be maintained and lighted for night use. Screening of parking and service areas shall be encouraged through ample use of trees, shrubs, hedges, and screening walls.

Any private drives, parking areas, or other vehicular ways used for common access for two (2) or more residents will be suitably paved and maintained as a condition of approval of the project.

**4.110 DEVELOPMENT STANDARDS FOR ANIMAL HOSPITALS, KENNELS AND POUNDS (ADDED BY ORDINANCE 112014-1, December 18, 2014)**

The following regulations shall apply to all facilities providing overnight boarding services to dogs and/or other domesticated animals:

- A. Any open pens, runs, cages, or kennels shall be located in the rear yard and at least 300 feet from any side or rear lot lines.
- B. Outdoor kennel areas shall be enclosed with walls or fences that are constructed to reduce noise and visual impact of the kennel.

- C. The facility must have adequate space to house animals that complies with federal regulations on humane treatment.

**ARTICLE V**

**ZONING DISTRICTS**

**SECTION**

- 5.010 Classification of Districts
- 5.020 Zoning Map
- 5.030 Zoning District Boundaries
- 5.040 Zoning of Annexed Territory
- 5.050 Specific District Regulations
- 5.060 Floodplain District - Floodplain Management Regulations

**5.010 CLASSIFICATION OF DISTRICTS**

For the purpose of this Ordinance, the following zoning districts are hereby established in the Town of Westmoreland, Tennessee:

<u>Zoning District</u>	<u>District Abbreviation</u>
<b>Low-Density Residential</b>	<b>R-1</b>
<b>Medium-Density</b>	<b>R-2</b>
<b>Central Business District</b>	<b>C-1</b>
<b>Highway Service District</b>	<b>C-2</b>
<b>Restricted Office, Medical and Commercial District</b>	<b>C-3</b>
<b>General Industrial</b>	<b>I-1</b>

**5.020 ZONING MAP**

The location and boundaries of the zoning districts established by this Ordinance are bounded and defined as shown on the map designated as the Official Zoning Map of Westmoreland, Tennessee. The Zoning Map and any amendment thereto shall be dated with the effective date of the adopted Official Zoning Map and amendments thereto shall be maintained in the office of the Building Inspector and shall be available for inspection by the public at all reasonable times, as long as this Ordinance remains in effect.

**5.030 ZONING DISTRICT BOUNDARIES**

Unless otherwise indicated, the district boundary lines are centerlines of streets or blocks or such lines extended, lot lines, corporate limit lines. Such lines drawn as to appear on these lines are hereby on these lines. Where district boundary lines approximately parallel a street or other right-of-way, such distance boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by use of the scale and said zoning map. Questions concerning the exact locations of district boundaries shall be determined by the Westmoreland Board of Zoning Appeals.



Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Zoning Appeals may permit the extension of the regulations for either portion of the lot not to exceed five hundred (500) feet beyond the district line into the remaining portion of the lot.

#### **5.040 ZONING OF ANNEXED TERRITORY**

All territory which may hereafter be annexed to the Town of Westmoreland shall be zoned "Low-Density Residential, R-1." Such annexed territory shall retain such zoning classification until such time as the necessary studies are made by the Planning Commission and the Official Zoning Map is amended in the manner provided in Article VII, Section 7.090.

#### **5.050 SPECIFIC DISTRICT REGULATIONS**

The following regulations shall apply in the five (5) zoning districts established in Section 5.010, of this Ordinance.

##### **5.051 Residential Districts**

The Residential Districts established by this Ordinance are designed to promote and protect public health, safety, comfort, convenience, property, and other aspects of the general welfare. The general goals include, among others, the following specific purposes:

1. To provide sufficient space in appropriate locations for residential development to meet the housing needs of the Town's present and expected future population, with due allowance for the need for a choice of sites and building types;
2. To protect residential areas, as far as possible, against heavy traffic and against through traffic of all kinds;
3. To protect residential areas against congestion, by regulating the density of population and the bulk of buildings in relation to the land around them and to one another, and by providing for off-street parking spaces;
4. To require the provision of open space and a maximum conservation of natural sites in residential areas in order to provide larger open areas with greater utility for rest and recreation; and to encourage the development of more attractive and economic and less monotonous building forms, by providing freedom of architectural and site design;
5. To provide for access of light and air to windows and for privacy by controls over the spacing and height of buildings and other structures;
6. To provide appropriate space for those public and private educational, recreational, health, and similar facilities which serve the needs of nearby residents, which generally perform their own activities more effectively in a residential environment, and which do not create objectionable influences;
7. To promote the most desirable use of land and direction of building development in accord with a well-considered plan, to promote stability of residential development, to protect the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the Town's tax revenue.

### **5.051.1 R-1, Low-Density Residential District**

#### **A. District Description**

This district is designed to provide suitable areas for low-density residential development characterized by an open appearance. Most generally this district will consist of single and duplex detached dwellings and such other structures as are accessory thereto. This district also includes community facilities, public utilities, and open uses which serve specifically the residents of the district, or which are benefited by and compatible with a residential environment. Further, it is the intent of this Ordinance that this district be located so that the provision of appropriate urban services and facilities will be physically and economically facilitated. It is the express purpose of this Ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this Ordinance.

#### **B. Uses Permitted**

In the R-1, Low-Density Residential District, the following uses and their accessory uses are permitted:

1. Single detached dwelling.
2. Prefabricated dwellings (Excluding Mobile Homes).
3. Duplexes dwellings.
4. Customary accessory buildings, including private garages and noncommercial workshops, provided they are located in the rear yard and not closer than five (5) feet to any lot line
5. Customary incidental home occupation as regulated in Article IV, Section 4.030.
6. Agriculture.

#### **C. Uses Permitted as Special Exceptions**

In the R-1, Low-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Churches.
2. Public and private schools offering general education courses.
3. Nursery schools or kindergartens.

4. Public and semi-public recreational facilities and grounds.
5. Utility facilities (without storage yards) necessary for the provision of public services.
6. Government buildings and community centers.
7. Cemeteries.

D. Uses Prohibited

Mobile homes, mobile home parks; billboards and similar advertising structures; uses not specifically permitted; or uses not permitted upon approval as a special exception.

E. Dimensional Regulations

All uses permitted in the R-1, Low-Density Residential District shall comply with the following requirements, except as provided in Article VI.

1. Lot Size and Density of Development

<u>Minimum Lot Size</u>	<u>Area Required</u>	
<u>Use</u>	<u>With Public Sewer</u>	<u>Without Public Sewer</u>
-Single Detached Dwelling	10,000 sq. ft.	20,000 sq. ft.
-Duplex Dwelling	15,000 sq. ft.	40,000 sq. ft.
-All Other Uses	20,000 sq. ft.	40,000 sq. ft.

Density Permitted

-Single Detached	As Determined by
-Duplex Dwellings	Minimum Lot Size

2. Minimum Lot Width at Building Setback Line

-Single Detached Dwelling	80 ft.	100 ft.
-Duplex Dwelling	100 ft.	100 ft.
-All Other Uses	200 ft.	200 ft.

3. Yard Requirements

	<u>With Public Sewer</u>	<u>Without Public Sewer</u>
<u>Minimum Rear Yard</u>	30 ft.	30 ft.

Minimum Side Yard

- For One and Two Story Buildings                      10 ft.      **(Amended by Ordinance 326, December 21, 1998)**
  
- Three Story Buildings                      15 ft.                      25 ft.

Minimum 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 classification on the latest major route plan:

- Arterial Streets                      50 ft.
- Collector or Connector Streets                      40 ft.
- Minor Streets                      30 ft.

4. Maximum Lot Coverage

On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed thirty-five (35) percent of the total area of such lot or parcel.

5. Height Requirement

No building shall exceed three stories or thirty-five (35) feet in height, except as provided in Article VI, Section 6.030.

6. Parking Space Requirements

As regulated in Article IV, Section 4.010.

**5.051.2 R-2, Medium-Density Residential District**

A. District Description

This district is designed to provide suitable areas for medium-density residential development where complete urban services and facilities are provided or where the extension of such services and facilities will be physically and economically facilitated. Most generally this district will be characterized by residential structures each containing a multiple number of dwelling units as well as single- and two-family dwellings, mobile homes and mobile home parks. However, it is the intent of this Ordinance to not restrict in number the dwelling units contained in a building provided there is sufficient area of zone lot and open space on such lot relative to the number of dwelling units thereon. This district is intended also to permit community facility and public utility installations which are necessary to service and do service specifically the residents of the district, or where installations are benefited by and compatible with a residential environment. It is the express

purpose of this Ordinance to exclude from this district all buildings or other structures and uses having commercial characteristics and not planned as an integral part of a total residential development, whether operated for profit or otherwise, except that special exception uses and home occupations specifically provided for in these regulations for this district shall be considered as not having such characteristics if they otherwise conform to the provisions of this Ordinance.

B. Uses Permitted

In the R-2, Medium-Density Residential District, the following uses and their accessory uses are permitted:

1. Single-family detached dwelling.
2. Individual mobile homes.
3. Prefabricated dwellings.
4. Duplex dwellings.
5. Semi-detached dwellings.
6. Customary accessory buildings, including private garages, provided they are located in the rear yard and not closer than five (5) feet to any lot line.
7. Customary incidental home occupations as regulated in Article IV, Section 4.040.

C. Uses Permitted as Special Exception

In the R-2, Medium-Density Residential District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Churches.
2. Public and private schools offering general education courses.
3. Nursery schools and kindergartens.
4. Public and semi-public recreational facilities and grounds.
5. Utility facilities (without storage yards) necessary for the provision of public services.
6. Multi-family dwellings as regulated in Article IV, Section 4.090.
7. Government Building and community centers.

8. Cemeteries.
9. Mobile home parks as regulated in Article IV, Section 4.080.
10. Attached dwellings as regulated in Article IV, Section 4.100.

D. Uses Prohibited

Billboards and similar advertising structures; uses not specifically permitted; or uses not permitted upon approval of a special exception.

E. Dimensional Regulations

All uses permitted in the R-2, Medium-Density Residential District, shall comply with the following requirements, except as provided in Article VI.

1. Lot Size and Density of Development

<u>Minimum Lot Size</u>	<u>Area Required</u>	
<u>Use</u>	<u>With Public Sewer</u>	<u>Without Public Sewer</u>
-Single Detached Dwelling	9,000 sq. ft.	20,000 sq. ft.
-Mobile Homes Located on Individual Lots	20,000 sq. ft.	40,000 sq. ft.
	<b>(Amended by Ordinance 112014-1 December 18, 2014)</b>	
-Duplex and Semi- Detached Dwellings	12,000 sq. ft.	40,000 sq. ft.
-Attached Dwellings	As Required by Section 4.100	
-Multi-Family Dwellings	As Required by Section 4.090	
-All Other Uses	16,000 sq. ft.	40,000 sq. ft.

Density Permitted

-Single Detached Dwelling And Mobile Homes Located on Individual Lots	Determined by Minimum Lot Size Requirements
-Duplex and Semi- Detached Dwellings	Determined by Minimum Lot Size Requirements
-Attached Dwellings	As Required by Section 4.100
-Multi-Family Dwellings	As Required by Section 4.090
-Mobile Homes Located in Mobile Home Parks	As Required by Section 4.080

2. Lot Width at Building Setback Line

-Single Dwellings and Mobile Homes	75 ft.	100 ft.
-Duplex Dwellings	75 ft.	100 ft.
- Other Uses	100 ft.	200 ft.

3. Minimum Yard Requirements

Minimum Rear Yard 25 ft.

Minimum Side Yard

-For One and Two Story Buildings	10 ft.	<b>(Amended by Ordinance 326, December 21, 1998)</b>
-Three Story Buildings	20 ft.	

Minimum 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 classification on the latest major route plan:

Arterial Streets	50 ft.
Collector or Connector Streets	40 ft.
Minor Streets	30 ft.

4. Maximum Lot Coverage

On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed forty (40) percent of the total area of such lot or parcel.

5. Height Requirement

No building shall exceed thirty-five (35) feet in height, except as provided in Article VI, Section 6.030.

6. Parking Space Requirements

As regulated in Article IV, Section 4.010.

**5.052 Commercial District (Amended by Ordinance 505, July 21, 2011)**

The Commercial District established by this Ordinance is designed to promote and protect the health, safety, morals, convenience, order, prosperity and other aspects of the general welfare. These goals include, among others, the following:

1. To provide sufficient space, in appropriate locations in proximity to established residential areas, for local retail and service trades catering specifically to the recurring shopping needs of the occupants of nearby residences.

2. To protect both retail and service developments and nearby residences against fire, explosions, toxic and noxious matter, radiation, and other hazards, and against offensive noise, vibration, smoke, dust and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences.
3. To protect both retail and service developments and nearby residences against congestion, by regulating the intensity of retail and service developments consistent with their marketing functions, by restricting those types of establishments which generate heavy traffic, and by providing for off-street parking and loading facilities.
4. To provide sufficient space in an appropriate location for a commercial district to satisfy specific functional needs of Westmoreland, and in particular to serve the general public traveling along a major highway.
5. To provide sufficient space in appropriate locations for the mixture of compatible high density residential and restricted commercial developments where standards for development will provide protection for the environmental essentials of either.
6. To provide sufficient space in appropriate locations for all types of commercial and miscellaneous service activities.
7. To enhance the central business district and to promote and protect its service attributes, to lessen congestion in the district, to provide for high intensity of land use consistent with land valuation, and to protect its intended functional aspects against encroachment by detrimental influences.
8. To promote the most desirable use of land and direction of building development in accord with a well considered plan, to promote stability of commercial development, to strengthen the economic base of Westmoreland, to protect the character of the districts and their peculiar suitability for particular uses, to conserve the value of land and buildings, and to protect the Town's tax revenues.

#### **5.052.1 C-1, Central Business District**

##### **A. District Description**

This district is designed to provide for a wide range of retail, office, amusement, service uses, and light industrial processes involving high performance standards. In addition, this district provides for governmental uses, and community facilities and utilities necessary to serve the district or which are required for the general community welfare. The regulations are structured to permit maximum freedom of pedestrian movement. Relative high density and intensity of use is permitted in this district.

##### **B. Uses Permitted**

In the C-1, Central Business District, the following uses and their accessory uses are permitted:

1. Retail or wholesale stores
2. Professional services (architects, attorneys, dentists, physicians, engineers)



3. Banks
4. Barber and beauty shops
5. Civic administration
6. Clinic outpatient
7. Dry cleaning
8. Post Office
9. Newspaper and print shops
10. Community parks and amusement
11. Signs and billboards as regulated in Article IV, Section 4.060.

C. Uses Permitted as Special Exception

In the C-1, Central Business District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Boarding Houses (transient)
2. Hotels (transient)
3. Motels (transient)

D. Uses Prohibited

Any uses or structures not of a nature specifically permitted herein, are prohibited.

E. Dimensional Requirements

All uses permitted in the C-1, Central Business District shall comply with the following requirements except as provided in Article VI.

1. Minimum Lot Size

No minimum lot size shall be required in the C-1 District.

2. Minimum Yard Requirements

No yards, as such, are required within the C-1 District. However if an open area extending along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed.

3. Maximum Lot Coverage

There is no restriction on the area occupied by all buildings including accessory buildings on a lot or parcel located in the C-1 District.

4. Height Requirement

No building shall exceed three (3) stories or forty (40) feet in height, except as provided in Article VI, Section 6.030.

5. Parking Space Requirements

As required in Article IV, Section 4.010.

**5.052.2 C-2, Highway Service District**

A. District Description

This district is designed to provide adequate space in appropriate locations for uses which serve the needs of the motoring public. Automobile and other vehicular service establishments, transient sleeping accommodations, and eating and drinking establishments primarily characterize this district. In addition, commercial trade and service uses are permitted if necessary to serve the recurring needs of persons frequenting these districts. Community facilities and utilities necessary to serve these districts, or necessary for the general community welfare are also permitted. Bulk limitations required of uses in these districts, in part, are designed to maximize compatibility with lesser intense use of land or building in proximate residential districts. Appropriate locations for this district is along major traffic arteries.

B. Uses Permitted

In the C-2, Highway Service District, the following uses and their accessory uses are permitted:

1. Retail or Wholesale stores
2. Boarding houses (transient)
3. Hotels (transient)
4. Motels (transient)
5. Places of religious worship
6. Funeral parlors and mortuaries
7. Theaters
8. Banquet Halls
9. Night clubs
10. Community halls

11. Exhibition halls
12. Libraries
13. Day care
14. Alcohol and drug centers
15. Assisted living facilities
16. Congregate care facilities
17. Convalescent facilities
18. Child care facilities
19. Nursing homes
20. Hospitals
21. Gasoline service stations subject to the provisions of Article IV, Section 4.050.
22. Signs and billboards as regulated in Article IV, Section 4.060.
23. Utility services including tanks and towers
24. Animal hospitals, kennels and pounds subject to the provisions of Article IV, Section 4.110. **(Amended by Ordinance 112014-1 December 18, 2014)**
25. Storage uses under 2009 International Building Code Groups S-1 and S-2
26. Trailers

C. Uses Permitted as Special Exception

In the C-2, Highway Service District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Travel trailer parks and overnight campgrounds.
2. Manufacturing, provided such activity does not exceed the definition of “Light Industry” as found in Article II, Section 2.020.
3. Storage buildings and warehouses for the provision of city and utility services proposing an alternative parking lot surface that does not meet the requirements of Article IV, Section 4.015, provided there is no public access on site. Provided a barrier or gate is in place to restrict access by public. **(Added by Ordinance 072013-1 July 29, 2013)**

D. Uses Prohibited

Industrial uses; junkyards, including automobile wrecking, and salvage; uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations

All uses permitted in the C-2, Highway Service District shall comply with the following requirements except as provided in Article VI.

1. Minimum Lot Size

No minimum lot size shall be required in the C-2 District.

2. Minimum Yard Requirements

Front Setback - 35 ft.

Side - None is required. However if an open area extending along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed.

Rear - Fifteen (15) feet if a rear entrance is provided, otherwise none is required.

3. Maximum Lot Coverage

No maximum lot coverage shall be imposed in the C-1 District.

4. Height Requirement

No building shall exceed forty (40) feet in height, except as provided in Article VI, Section 6.030.

5. Parking Space Requirements

As required in Article IV, Section 4.010.

**5.052.3 C-3, Restricted Office, Medical and Commercial District**

A. This district is designed to provide adequate space in appropriate locations for a limited variety of commercial and office uses which would not adversely impact on adjacent residential uses. Certain office type activities, limited medical facilities, and drug stores are envisioned as being the type uses allowed in this district. Appropriate locations for this district are along major arterials in places that are easily accessible from residential areas.

B. Uses Permitted

In the C-3, Restricted Office, Medical and Commercial District, the following uses are permitted.

1. Medical doctor's offices for the outpatient treatment of humans.
2. Dental offices.
3. Lawyers' offices.
4. Real Estate Offices.
5. Drug store.
6. Barber and Beauty shops.

C. Uses Prohibited

All uses not specifically permitted.

D. Dimensional and Required Site Design Regulations

All uses permitted in the C-3, Restricted Offices, Medical and Commercial Districts shall comply with the following requirements except as provided in Article VI.

1. Minimum Lot Size

No minimum lot size shall be required in the C-3 Districts.

2. Minimum Yard Requirements

Front Setback - 35 ft.

Side - 15 ft.

Rear - Twenty (20) feet except where the rear lot line abuts a residential district, in which case the setback shall be thirty (30) feet with an appropriate screen of trees and shrubs.

3. Maximum Lot Coverage

The maximum lot coverage shall be forty (40) percent, not including parking spaces and driveways.

4. Height Requirement

No building shall exceed thirty-five (35) feet in height.

5. Parking Space Requirements

As regulated in Article IV, Section 4.010.

6. Green Treatment and Site Design

Each site development in the C-3, Restricted Commercial District shall be developed with at least ten (10) percent of the area

landscaped with green treatment, which shall consist of grass, shrubs, plants, or other indigenous flora. Rocks will not be permitted. No signs, merchandise or other material shall be placed on or above this area. This area shall be located at least fifty (50) percent in front of the building. The remainder may be placed on either side but not beyond the principal structures' rear wall. For a lot whose property abuts a residential district, an appropriate planting strip at least ten (10) feet wide shall be planted with evergreen trees that reach a height of at least ten (10) feet within five (5) years, and shrubs that reach a height of at least six (6) feet in two (2) years.

Garbage containers for commercial and other uses shall be screened from view by an appropriate fence, wall or screen. A sketch of said screen, fence or wall shall accompany the site plan. In the case of dumpsters, the pad and approach to the pad shall consist of twelve (12) inches of steel reinforced concrete for the length of a dumpster pick-up truck.

Developers shall pay a plan review fee of ten cents (\$0.10) per square foot of building area, not to exceed two hundred-fifty dollars (\$250.00), to be utilized by the Town to hire professional consultants to insure compliance with fire and building codes and for a site plan review fee.

The site plan shall contain all the items contained in the above section, plus two (2) foot contour intervals, drainage control design, access, parking and circulation diagrams and the proposed location of any signs on the site.

All signs not referring to the name of the existing enterprise or to persons employed on the site are prohibited. There shall be no flashing or intermittently lighted signs and all signs shall be limited to twelve (12) feet in height. All signs must be at least six (6) feet above the ground level. Each office or use shall be limited to one (1) sign of not more than thirty-six (36) square feet in area.

There shall be no buildings constructed with a rear entry delivery system adjacent to a residential district. All buildings to be located within the C-3 Residential Commercial District shall be of compatible construction composed of an extension of brick, stone or better materials.

The Planning Commission will exercise the power of site review and all site plans (drawn to a scale of one (1) inch equals fifty (50) feet or larger) shall be approved by the commission before a Building Permit may be issued.

### **5.053 Industrial Districts**

The Industrial Districts established by this Ordinance are designed to promote and protect the health, safety, morals, convenience, order, prosperity, and other aspects of the general welfare. These goals include, among others, the following specific purposes:

1. To provide sufficient space, in appropriate locations, to meet the needs of the area of the Town's expected economic expansion in the Town for all types of distributive, industrial and related activities, with due allowance for the need for choice of suitable sites.
2. To protect distributive, industrial and related activities, as well as residential and related activities by providing for the separation of these uses, and, as far as possible, provided that appropriate space needs for distributive and industrial activities are available by prohibiting the use of such space for residential purposes.
3. To encourage industrial development which is free from danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust or other particulate matter, and other hazards, and from offensive noise, vibration, odorous matter, heat, humidity, glare, and other objectionable influences, by permitting such development areas where this Ordinance restricts the emission of such nuisances, without regard to the industrial products and processes involved.
4. To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial and related activities, by restricting those industrial activities which involve danger of fire, explosions, toxic or noxious matter, radiation, smoke, dust, or other particulate matter, and other hazards, or which create offensive noise, vibration, heat, humidity, glare, and other objectionable influences, by permitting such development in areas where this Ordinance restricts the emission of such nuisances, without regard to the industrial products or processes involved.
5. To protect industrial activities and related development against congestion, as far as is possible and appropriate in each area, by limiting the bulk of buildings in relation to the land around them and to one another, and by requiring space off public ways for parking and loading facilities associated with such activities.
6. To promote the most desirable use of land and direction of building development, to promote stability of industrial and related development, to strengthen the economic base of the Westmoreland area, to protect the character of these districts and their peculiar suitability for particular uses, and to conserve the value of land and buildings, and to protect the Town's tax revenues.

#### **5.053.1 I-1, General Industrial District**

##### **A. District Description**

This district is designed for a wide range of industrial and related uses which are basically as compatible as possible with other types of land uses which this district may adjoin and which cause little off-site adverse impact. New residential development is excluded from this district, both to protect residences from an undesirable environment and to ensure the reservation of adequate areas for industrial development. Community facilities which provide needed services to the allowable industrial uses are permitted.

##### **B. Uses Permitted:**

In the I-1, General Industrial District, the following uses and their accessory uses are permitted:

1. Food and kindred products manufacturing.
2. Textile mill products manufacturing.
3. Apparel and other finished products made from fabrics, leather, and similar materials manufacturing.
4. Furniture and fixtures manufacturing.
5. Printing, publishing and allied industries.
6. Stone, clay, and glass products manufacturing.
7. Fabricated metal products manufacturing.
8. Professional, scientific, and controlling instruments; photographic and optical goods, watches and clocks manufacturing.
9. Miscellaneous manufacturing including jewelry, silverware and plated ware, musical instruments and parts, toys, amusement and sporting goods manufacturing, pens, pencils, and other office materials, costume jewelry, novelties and miscellaneous notions; tobacco manufacturing, motion picture production.
10. All types of wholesale trade.
11. Office functions only where it is directly related to the industrial establishment in which it is located.
12. Signs and billboards as regulated in Article IV, Section 4.060.
13. Warehouse, storage and truck terminal facilities.
14. Agricultural equipment sales and repair.
15. All public utilities including buildings, necessary structures, storage yards and other related uses.
16. Building materials storage and sales.
17. Lumber and wood products manufacturing.
18. Lots or yards for scrap or salvage operations or for processing, storage, display, or sales of any scrap or salvage materials.
19. Paper and allied products manufacturing.
20. Chemicals and allied products manufacturing.
21. Petroleum refining and related industries.
22. Rubber and miscellaneous plastic products manufacturing.
23. Primary metal industries.



24. Airports.
25. Solid waste disposal, subject to the approval of the Sumner County Health Department, the Tennessee Department of Public Health, and the Westmoreland Mayor and Board of Aldermen.
26. Mining activities and related services.

C. Uses Permitted as Special Exceptions

In the I-1, General Industrial District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article VII, Section 7.060.

1. Restaurants and cafeterias where food is consumed on the premises inside the principal structure.
2. Convenience sales.
3. Automobile wrecking, salvage, and junk yards, subject to provisions of Article IV, Section 4.070.
4. Adult Oriented Establishments and its accessory uses may be permitted as special exceptions after a Public Hearing, review and approval by the Board of Zoning Appeals in accordance with Article VII, Section 7.060, Procedure for Authorizing Special Exceptions; and Article III, Section 3.130, Requirements Governing Adult Oriented Establishments. **(Added by Ordinance 364, September 20, 2004)**
5. Storage buildings and warehouses for the provision of city and utility services proposing an alternative parking lot surface that does not meet the requirements of Article IV, Section 4.015, provided there is no public access on site. Provided a barrier or gate is in place to restrict access by public. **(Added by Ordinance 072013-1 July 29, 2013)**

D. Uses Prohibited

Uses not specifically permitted or uses not permitted upon approval as a special exception.

E. Dimensional Regulations

All uses permitted in the I-1, General Industrial District shall comply with the following requirements, except as provided in Article VI.

1. Minimum Lot Size  
Twenty thousand (20,000) square feet.

2. Minimum Yard Requirements

Front Setback	45 ft.
Side	20 ft.
Rear	20 ft.

3. Maximum Lot Coverage

On any lot or parcel of land, the area occupied by all buildings including accessory buildings may not exceed fifty (50) percent of the total area of such lot or parcel.

4. Height Requirements

No building shall exceed fifty (50) feet in height, except as provided in Article VI, Section 6.030.

5. Parking Space Requirements

As regulated in Article IV, Section 4.010.

**5.060 Floodplain District – Floodplain Management Regulations (Added by Ordinance 374, June 19, 2006)**

**5.061 Statutory Authorization, Findings of Fact, Purpose and Objectives**

1. Statutory Authorization

The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210; Tennessee Code Annotated, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Westmoreland Board of Mayor and Aldermen, does ordain as follows:

2. Findings of Fact

- (a) The Westmoreland Board of Mayor and Aldermen, 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 (10-1-04 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, floodproofed, or otherwise unprotected from flood damages.

3. Statement of Purpose

It is the purpose of this Ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

- (a) Restrict or prohibit uses which are vulnerable to water 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 involved in the accommodation flood waters;
- (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.

D. Objectives

The objectives of this Ordinance 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.

**5.062** Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

**"Accessory Structure"** shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

- (1) Accessory structures shall not be used for human habitation.
- (2) Accessory structures shall be designed to have low flood damage potential.
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
- (4) Accessory structures shall be firmly anchored to prevent flotation that may result in damage to other structures.
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

**"Act"** means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

**"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 firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered **"New Construction"**.

**"Appeal"** means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

**"Area of Shallow Flooding"** means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one (1) percent or greater annual chance of flooding to an average depth of one to three (1'-3') feet 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.)

**"Area of Special Flood-Related Erosion Hazard"** is the land within a community that 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.

**"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one- percent 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.

**"Base Flood"** means the flood having a one (1) percent chance of being equalled or exceeded in any given year.

**"Basement"** means that portion of a building having its floor subgrade (below ground level) on all sides.

**"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.

**"Building"**, means any structure built for support, shelter, or enclosure for any occupancy or storage (See **"Structure"**)

**"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.

**"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 flood water, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

**"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.

**"Erosion"** means the process of the gradual wearing away of landmasses. This peril is not per se covered under the Program.

**"Exception"** means a waiver from the provisions of this Ordinance that relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this Ordinance.

**"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).

**"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).

**"Existing Structures"** see **"Existing Construction"**.

**"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).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**"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 (1) percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means 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.

**"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.

**"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.

**"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.

**"Floodplain"** or **"Flood Prone Area"** means any land area susceptible to being inundated by water from any source (see definition of **"Flood"** or **"Flooding"**).

**"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.

**"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.

**"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.

**"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.

**"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.

**"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.

**"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.

**"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.

**"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.

**"Functionally Dependent Use"** means a use that 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.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

**"Historic Structure"** means any structure that is:

- (1) 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;
- (2) 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;
- (3) 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
- (4) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior, or
  - (b) Directly by the Secretary of the Interior.

**"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.

**"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.

**"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 Ordinance.

**"Manufactured Home"** means a structure, transportable in one 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.

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.

**"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 Ordinance, 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.

**"National Geodetic Vertical Datum (NGVD)"** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**"New Construction"** means any structure for which the "start of construction" commenced after the effective date of this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

**"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 this ordinance or the effective date of the first floodplain management ordinance and includes any subsequent improvements to such structure.

**"North American Vertical Datum (NAVD)"** as corrected in 1988 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**"100-Year Flood"** see **"Base Flood"**.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.



**"Recreational Vehicle"** means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"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.

**"Riverine"** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**"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.

**"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.

**"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.

**"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.

**"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 (50) percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any repairs, reconstruction's, rehabilitation's, 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 (50) percent of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) 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: (1) 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; (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**"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 (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**"Variance"** is a grant of relief from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

**"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 Ordinance is presumed to be in violation until such time as that documentation is provided.

**"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.

### **5.063 General Provisions**

#### **1. Application**

This Ordinance 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 Ordinance.

3. Requirement for Development Permit

A development permit shall be required in conformity with this Ordinance 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 Ordinance and other applicable regulations.

5. Abrogation and Greater Restrictions

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

6. Interpretation

In the interpretation and application of this Ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) 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 Ordinance 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 Ordinance 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 Ordinance shall not create liability on the part of Westmoreland, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

8. Penalties for Violation

Violation of the provisions of this Ordinance 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 Westmoreland, Tennessee from taking such other lawful actions to prevent or remedy any violation.

**5.064 Administration**

1. Designation of Ordinance Administrator

The Building Inspector is hereby appointed as the Administrator to implement the provisions of this Ordinance.

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 (BFE's) are available, or to the highest adjacent grade when applicable under this Ordinance.
- (ii) Elevation in relation to mean-sea-level to which any nonresidential building will be floodproofed where BFE's are available, or to the highest adjacent grade when applicable under this Ordinance.
- (iii) Design certificate from a registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in Subsection 5.064, 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 nonresidential 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 Ordinance 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 U. S. C. 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 Subsection 5.064, 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 floodproofed, in accordance with Subsection 5.064, 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 Subsection 5.064, 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 Ordinance.
- (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 Ordinance.

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 (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Subsection 5.062, of this Ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 5.064, 2.

- (j) All records pertaining to the provisions of this Ordinance shall be maintained in the office of the Building Inspector and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

## **5.065 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 Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance; and,
- (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this Ordinance, 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 (1) foot 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 flood water shall be provided in accordance with the standards of Section 5.064, 2.

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 (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Subsection 5.062, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 5.064, 2.

- (b) Nonresidential Construction. New construction or substantial improvement of any commercial, industrial, or nonresidential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one (1) foot 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 (3) feet above the highest adjacent grade (lowest floor and highest adjacent grade being defined in Subsection 5.062, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 5.064, 2.

Buildings located in all A Zones may be floodproofed, 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 Subsection 5.064, 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 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 (1) foot 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 flood waters 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 flood waters and all such petitions shall comply with the provisions of Subsection 5.065, 2, of this Ordinance.
- (d) Standards for Manufactured Homes and Recreational Vehicles
- (i) All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved 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 (1) foot 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 (3) feet in height above the highest adjacent grade.

- c. Any manufactured home, which has incurred “substantial damage” as the result of a flood or that has substantially improved, must meet the standards of Article V, Section 5.065, 2, of this Ordinance.
- d. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- e. All recreational vehicles placed on identified flood hazard sites must either:
  - i. Be on the site for fewer than one hundred-eighty (180) consecutive days;
  - ii. 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.
  - iii. 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 Subsection 5.063, 2, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, 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 Subsection 5.065.

D. 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 Subsection 5.063, 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 floodproofed to elevations established in accordance with Subsection 5.065, 2.

5. Standards for Streams Without Established Base Flood Elevations or Floodways (A Zones)

Located within the Areas of Special Flood Hazard established in Subsection 5.063, 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 Subsection 5.063, 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 Section (a)-(e) **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 (20) feet, 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 (1) foot 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 (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of Subsection 5.065, 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 Subsection 5.063, 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 nonresidential buildings shall have the lowest floor, including basement, elevated to at least one (1) foot 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 flood waters shall be provided in accordance with standards of Subsection 5.065, 2, **and** "Elevated Buildings".
- (b) All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one (1) foot 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 (3) feet 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 ordinance and shall provide such certification to the Building Inspector as set forth above and as required in Subsection 5.064, 2.

- (c) Adequate drainage paths shall be provided around slopes to guide flood waters 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 Subsection 5.063 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 Subsection 5.064, and Subsection 5.065, 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 (1) foot 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 Section 5.064.

**5.066 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 Ordinance.
- (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 Ordinance, 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;
  - (viii) 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;
  - (ix) 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 purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
  - (e) Variances 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.

## ARTICLE VI

### EXCEPTIONS AND MODIFICATIONS

#### SECTION

- 6.010 Scope
- 6.020 Nonconforming Uses and Noncomplying Buildings and Other Structures
- 6.030 Exceptions to Height Limitations
- 6.040 Lots of Record
- 6.050 Exception to Front Setback Requirements
- 6.060 Absolute Minimum Lot Size
- 6.070 Exception to Lot Width Requirements

#### **6.010 SCOPE**

Article VI, of this ordinance, is devoted to providing for the necessary exceptions and modifications to the specific zoning district provisions and the supplementary provisions provided in Article IV and Article V.

#### **6.020 NONCONFORMING USES AND NONCOMPLYING BUILDINGS AND OTHER STRUCTURES**

The districts established in this ordinance (as set forth in district regulations in Article V) are designed to guide the future use of land in Westmoreland, Tennessee by encouraging the development of desirable residential, commercial, and industrial areas with appropriate groupings of compatible and related uses and thus promote and protect the public health, safety, and general welfare.

As a necessary corollary, in order to carry out such purposes, nonconforming uses which adversely affect the development of such areas must be subject to certain limitations. The provisions governing nonconforming uses set forth in this Article are therefore established in order to provide a gradual remedy for existing undesirable conditions resulting from such incompatible nonconforming uses, which are detrimental to the achievement of such purposes. While such uses are generally permitted to continue, this ordinance is designed to restrict further investment in such uses which would make them more permanent establishments in inappropriate locations.

In the cases of a few objectionable nonconforming uses which are detrimental to the character of certain districts, a reasonable statutory period of life is established for such uses in order to permit the owner to gradually make his plans for the future during a period in which the nonconforming use is allowed to continue, thereby minimizing any loss, while at the same time assuring the public that the districts in which nonconformity exists will eventually benefit from a more uniform character.

In the case of buildings or other structures not complying with the bulk regulations of this ordinance, the provisions governing noncomplying buildings or other structures set forth in this Article are established in order to permit the appropriate use of such buildings or other structures, but to prevent the creation of additional noncompliance or increase in the degree of noncompliances.

These provisions are thus designed to preserve the character of the districts established in this ordinance in light of their suitability to particular uses, and thus to promote the public health, safety, and general welfare.

**6.021 Provisions Governing Nonconforming Uses (Amended by Ordinance 112014-1, December 18, 2014)**

A. Applicability

The provisions of this section are applicable to all industrial, business, commercial, or multi-family uses which are not permitted within the districts in which they are located. Additionally, uses not meeting the performance standards along with buildings and other structures located within the floodplain are considered within the regulation of nonconforming uses.

B. Construction or Use Permit Approved Prior to Ordinance Adoption

Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure, or part thereof where official approvals and required building permits have been granted before the enactment of this ordinance, or any amendment thereto, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner within the subsequent six (6) months period, and not discontinued until completion except for reasons beyond the builder's control.

In the event that the activity or construction of such building or other structures is not substantially underway and being diligently pursued within the six (6) month period following the issuance of a certificate or permit, then such certificate or permit shall automatically lapse and the provisions of this ordinance shall apply.

C. Continuation of Nonconforming Use

Any nonconforming use which existed lawfully at the time of enactment of this ordinance and which remains nonconforming, or any use which remains nonconforming, or any use which shall become nonconforming upon enactment of this ordinance, or any subsequent amendments thereto may be continued subject to the following provisions.

D. Conditional Use - Status and Alteration

Whenever the zoning ordinance in effect at the time of adoption of this zoning ordinance has authorized any use which is not permitted as of right by issuing a variance, exception, or permit to locate in a district such authorization may be continued subject to the conditions concerning such use which were established at the time of approval of said variance, exception, or conditional use, including any time period established for the continuation of such use. However, any change of use, alteration or expansion is subject to the provisions of this article.



E. Repairs and Alterations

1. General

Nothing in this section shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

Minor repairs may be made to a building or other structure occupied by a nonconforming use, or in connection with a permitted change of nonconforming use.

No alteration (as defined by this ordinance) other than minor repairs shall be made to a building or the structure occupied by a nonconforming use, except as provided in Subsection (F) below or:

- (a) In order to comply with requirements of law regarding fire protection, safety of the structure, etc.; or
- (b) In order to conform to the applicable district regulations or performance standards.

2. Alteration of Commercial and Industrial Nonconforming Uses

Any commercial or industrial use subject to the provisions of this section shall be allowed to continue in operation and to make such alterations as may prove necessary for the continuation of said use. However, no alteration may be made which would result in a change from one nonconforming use to another nonconforming use shall be subject to the provisions of Section F, 5, below, and further provided that any such alteration permitted hereunder shall take place only upon the zone lot(s) on which said use was operating as of the effective date of this ordinance, or any subsequent amendment thereto.

F. Change of Nonconforming Use

1. General Provisions

For the purpose of this section, a change in use is a change to another use either under the same activity type or any other activity type or major class of activity; however, a change in occupancy or ownership shall not, by itself, constitute a change of use.

A nonconforming use may be changed to any conforming use, and the applicable bulk regulations and accessory off-street parking requirements shall apply to such change of use or to alterations made in order to accommodate such conforming use.

2. Land with Incidental Improvements

In all districts a nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall be changed only to a conforming use.

3. Buildings Designed for Residential Use

In all residential districts, a nonconforming use located in a building designed for residential use may be changed only to a conforming use permitted in the applicable district.

4. Buildings Designed for Nonresidential Use

In all residential districts, a nonconforming use located in a building designed for nonresidential use may be changed only to a conforming use or such nonconforming use may be changed to another nonconforming use provided that:

- Structural alterations, except as permitted in Subsection E, above, or enlargements are not made to the building or other structure(s).
- The degree of nonconformity or noncompliance is not increased.
- The nonconforming use to which such change is made will be less detrimental to the surrounding neighborhood than the existing nonconforming use.
- The provisions of Subsection F, 2, are not applicable.
- The Board of Appeals grants approval

5. Nonconforming Use Located in Commercial and Industrial Districts

In all commercial and industrial districts, a nonconforming use may be changed to a conforming use or such nonconforming use may be changed to another nonconforming use provided that:

- Structural alterations, except as permitted in Subsection E, above, or enlargements are not made to the building or other structures.
- The degree of nonconformity or noncompliance is not increased.
- All materials or products necessary thereto are stored within an enclosed building.
- The nonconforming use to which such change is made will be less detrimental to the surrounding neighborhood than the existing nonconforming use.
- The provisions of Subsection F, 2, above, are not applicable.

6. Zone Lot Containing Nonconforming Use

A zone lot containing a nonconforming use shall not be reduced in area except to comply with Subsection E, above.

7. Nonconforming to Conforming Use

Whenever a nonconforming use is changed to conforming use, such use shall not thereafter be changed to a nonconforming use, or whenever a nonconforming use is changed as permitted under Subsections 6, d, and e, above, such use shall not be changed to another use which would increase the degree of nonconformity.

G. Damage or Destruction

In all districts when any building or structure which is substantially occupied by a nonconforming use is damaged or destroyed, the following shall apply.

1. Land with Incidental Improvements

In all districts, when a nonconforming building or other structure or improvements located on "land with incidental improvements" (as defined in Subsection F, 2, above) is damaged or destroyed to the extent of twenty-five (25) percent or more of the assessed valuation of all buildings, and other structures or other improvements located thereon (as determined from the assessment rolls effective on the date of damage or destruction), such nonconforming use shall terminate and the tract of land shall thereafter be used only for a conforming use.

2. Building Designed for Multi-Family Residential Use

Multi-family residential establishments, whether used as owner-occupied property or rental property, which were permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to reconstruct new facilities necessary to the conduct of such multi-family residential establishment subsequent to the zoning change, in the event of damage, whether partial or complete, by involuntary fire or wind damage or other natural disaster.

3. Damage or Destruction of Commercial or Industrial Nonconforming Uses

Any commercial or industrial use subject to the provisions of this section shall be allowed to destroy and reconstruct new facilities necessary to the conduct of such operation, provided that destruction or rebuilding:

Shall not infringe upon, or increase the extent of any infringement existing at the time of adoption of this ordinance, upon any open space required by this ordinance.

Shall take place only upon the zone lot(s) on which said use was operating as of the effective date of this ordinance.

H. Discontinuance

In all districts when any building or structure which is substantially occupied by a nonconforming use is damaged or destroyed, the following shall apply.

1. General

When a nonconforming use of land with minor improvements or the active operation of substantially all the nonconforming uses in any building or other structure or tract of land is discontinued for a period of thirty (30) months, then the land or building or other structure shall thereafter be used only for conforming use. Intent to resume active operations shall not affect the foregoing provision.

**6.022 Noncomplying Building or Other Structures**

A. General Provisions

The provisions of this article shall control buildings and other structures, including signs, which do not meet the bulk or any other provisions applicable in the districts in which they are located except those provisions which pertain to activity or use.

B. Continuation of Use

The use of a noncomplying building or other structure or parcel may be continued, except as otherwise provided by this article.

C. Repairs and Alterations

Repairs, incidental alterations, or structural alterations may be made in noncomplying buildings or other structures subject to the provisions of Subsections D and E, below.

D. Enlargements or Conversions

A noncomplying building or other structure may be enlarged or converted, provided that no enlargement or conversion may be made which would either create a new noncompliance or increase the degree of noncompliance of a building or other structure or parcel of any portion thereof.

E. Damage or Destruction of Noncomplying Uses

1. Permitted Reconstruction

In all districts, when a noncomplying building or other structure is damaged by any involuntary means to the extent of fifty (50) percent or more of its total floor area, such building or other structure may be reconstructed only in accordance with the applicable bulk regulations and other provisions of this ordinance.

2. Use of Alternate Formula

In any case where the applicant or the enforcing officer alleges that the floor area is an inappropriate measure of the extent of damage or destruction, and elects to substitute reconstruction costs for floor area, an application may be made to the Board of Zoning Appeals to determine the extent of such damage or destruction. The Board may grant such application permitting such building to be restored only if the Board finds that the estimated cost of restoring the damage or destroyed portion of such building is not greater

than fifty (50) percent of the estimated cost of reconstructing the entire building. In determining reconstruction costs, the cost of land shall be excluded. Cost data used for the purpose of applying the provisions of this section shall be provided by the applicant and if such data is to the satisfaction of said Board, such Board shall permit the restoration.

#### **6.030 EXCEPTION TO HEIGHT LIMITATIONS**

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, transmission towers, windmills, chimneys, smokestacks, conveyors, flag poles, radio towers, masts and aerials.

#### **6.040 LOTS OF RECORD**

The following provisions shall apply to all existing lots of record:

- A. Where the owner of a lot consisting of one (1) or more adjacent lots of official record at the time of the adoption of this ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. 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 Board of Zoning Appeals as possible.
- B. No lot which is now or hereafter built upon shall be so reduced in area that the yards and open space will be smaller than prescribed by this ordinance, and no yard, court, or open space provided around any building for the purpose of complying with the provisions hereof, shall again be considered as a yard, court, or other open space for another building.
- C. Where two (2) or more lots of record with a continuous frontage are under the same ownership, or where a substandard lot of record has continuous frontage with a larger 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.

#### **6.050 EXCEPTIONS TO FRONT SETBACK REQUIREMENTS**

The front setback requirement of this ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard setback may be less than required but not less than the average of the existing depth for front yards on developed lots within one hundred (100) feet, the setback shall in no case be less than fifteen (15) feet from the street right-of-way line.

#### **6.060 ABSOLUTE MINIMUM LOT SIZE**

In no case shall the Building Inspector or the Board of Zoning Appeals permit any zone lot in a residential district to be used as a building site which is less than six thousand (6,000) square feet in the total area and thirty (30) feet in width at its narrowest point, or has a front setback of less than fifteen (15) feet and a side setback of less than five (5) feet, with the exception of officially approved planned development.

**6.070 EXCEPTION TO LOT WIDTH REQUIREMENTS (Amended by Ordinance 336, August 16, 1999)**

On any lot which directly adjoins any cul-de-sac or turn around area of any dead end street, the minimum lot width requirement as measured at the front building setback line may be reduced to two-thirds (2/3) of this minimum lot width requirement, as specified in the applicable zoning district.

## ARTICLE VII

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

- 7.010 Administration of the Ordinance
- 7.020 The Enforcement Officer
- 7.030 Building Permits
- 7.040 Temporary Use Permits
- 7.050 Certificate of Occupancy
- 7.060 Procedure for Authorizing Special Exceptions
- 7.070 Board of Zoning Appeals
- 7.080 Variances
- 7.090 Amendments to the Ordinance
- 7.100 Penalties
- 7.110 Remedies
- 7.120 Separability
- 7.130 Interpretation
- 7.140 Effective Date

#### **7.010 ADMINISTRATION OF THE ORDINANCE**

Except as otherwise provided, no structure or land shall after the effective date of this ordinance be used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located. In their interpretation and application, the provisions of this ordinance shall be considered minimum requirements adopted for the promotion of public health, safety, morals, convenience, order, prosperity, and general welfare of the community. Where other public ordinances, resolutions, or regulations heretofore adopted or which may be adopted hereafter impose greater restrictions than those specified herein, compliance with such other ordinances, resolutions, or regulations is mandatory.

#### **7.020 THE ENFORCEMENT OFFICER**

The provisions of this ordinance shall be administered and enforced by the Town Building Inspector. In performance of administering and enforcing this ordinance, he shall:

- A. Issue all Building Permits and make and maintain records thereof.
- B. Issue all Certificates of Occupancy and make and maintain records thereof.
- C. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- D. Maintain and keep current zoning maps and records of amendments, thereto.
- E. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this ordinance.

- F. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The Building Inspector shall possess the right to enter upon any premises for the purpose of making inspections of said buildings or premises necessary to carry out his authorized duties.

### **7.030 BUILDING PERMITS**

It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, to commence the moving, alteration, or repair of any structure, including accessory structures, to use a building or structure, or to change the use of a building or structure, or to commence the filling of land without a permit thereof, issued by the Building Inspector.

No Building Permit shall be issued by the Building Inspector except in conformity with the provisions of this ordinance, unless there is received a written order from the Board of Zoning Appeals in the form of an administrative review, special exception, or variance as provided for by this ordinance.

- A. Application for a Building Permit shall be made in writing to the Building Inspector on forms provided for that purpose. All applications for Building Permits shall be accompanied by a plan or a plat in duplicate, drawn to scale, and showing the following: The actual shape, location, and dimensions of the lot to be built upon; the shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of buildings or other structures already on the lot and the elevation of the building site; the existing and intended use(s) of all such portions such buildings or other structures; and the location and design of off-street parking areas and off-street loading areas, and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

1. Single-Family and Two-Family Dwellings in Single Ownership

A Building Permit may be issued for a single-family dwelling or two family dwelling in single ownership, subsequent to the submittal and approval of the required information as cited in Section 7.030, A, above.

2. All Other Proposals for the Construction and Location of one or more Principal Structures on a Lot (Zone Lot)

A site plan must be approved by the Planning Commission, prior to the issuance of a Building Permit for all other proposals for the construction and location of one or more principal structures on any lot which contains the following information:

- a. Ten (10) copies of the information as cited in b, below, shall be submitted to the Town Clerk's Office no later than 11:00 a.m., seventeen (17) days prior to the next scheduled Planning Commission meeting.
- b. The required site plan shall exhibit the following information at no smaller scale than one (1) inch equals fifty (50) feet: contours at five (5) foot intervals; required automobile storage areas; servicing utilities



with reference to location, size, availability, and compatibility; loading and unloading spaces; maneuvering areas; openings for ingress and egress to public streets; the total square footage of all proposed on-site buildings and structures as well as paved areas; the location of all on site landscaping and a tabular listing thereof; a proposed drainage plan; the density of development or the required open space; the number of stories (all residential and commercial structures three (3) or more stories in height must have their plans approved by the State Fire Marshall's Office); the number of dwelling units per acre if applicable; all required building setbacks and other yard requirements; subsurface disposal test results where applicable; the location and type of buffering and screening; the location of servicing fire hydrants; the shape servicing fire hydrants; the shape of all structures on the lot; as well as a location map showing the relationship of the proposal drawn to scale, to other development, land uses, and streets.

- c. A Letter-of-Credit or Performance Bond shall be provided when deemed necessary by the Planning Commission, to ensure the provision of all on-site improvements as follows:
  - (1) All site plans presented for review and approval to the Planning Commission shall present the commission with a document indicating an intent to file a Performance Bond or Letter-of-Credit for improvements shown on the site in the amount of one hundred and ten (110) percent of the cost of said improvements. Such document shall be approved by the city engineer, or other specified city employee. It shall specify the amount of such bond or Letter-of-Credit by specific type of on and off-site improvements required, i.e., drainage requirements, landscaping, paving, utilities, etc.
  - (2) Said improvements shown on the site plan may include, but are not limited to, existing road improvements, buffer strips, proposed road construction, parking aisles, parking spaces, driveways, sewer and water extensions or connections, tiles, culverts, drainage ways including catch basins, or any other improvements required by the Planning Commission before the site plan is approved.
  - (3) The Performance Bond or Letter-of-Credit must be payable to the Westmoreland Mayor and Board of Aldermen.
  - (4) The Performance Bond or Letter-of-Credit must be filed when the Building Permit is issued and retained for a period of one (1) year from the issuance of the Building Permit which pertains to the approved plot plan. If improvements have been made within the one (1) year period, the Mayor and Board of Aldermen may release the bond after the inspection of all required improvements, and approval of those improvements by the Planning Commission, or its authorized representative. If improvements have not been

installed in a satisfactory manner, the Mayor and Board of Aldermen of the Town of Westmoreland shall retain and cash the Performance Bond to facilitate the completion of such improvements.

- d. Any other supporting information as deemed necessary by the Planning Commission.

3. Expiration of Site Plan

The approval of any site plan granted under the provision of this section (Section 7.030) shall become expired in any situation when a Building Permit has not been officially obtained within one (1) year of the official approval of said site plan (the date wherein the Planning Commission approved said site plan). Any application for a Building Permit for any land use depicted on an approved site plan which is made beyond a year after the approval of such site plan shall be denied, and no such permit shall be granted until a new site plan is prepared and approved by the Planning Commission under all the terms established within Section 7.030, b, of this ordinance.

B. Fee

The Westmoreland Board of Mayor and Aldermen shall establish a schedule of fees and a collection procedure for Building Permits. The schedule of fees shall be posted in the office of the Building Inspector and/or zoning administrator and Town Hall. Only the Town Board may alter or amend the fee schedule. Until the appropriate fee has been paid in full, no action shall be taken on any application.

C. Issuance of Permit

If the proposed excavation, construction, moving, or alteration as set forth in the application is in conformity with the provisions of this ordinance, the Building Inspector shall issue a Building Permit for such excavation or construction. If an application for a Building Permit is not approved, the Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any of the provisions of this ordinance.

D. Construction Progress

Any Building Permit issued becomes invalid if work authorized by it is not commenced within six (6) months of the date of issuance or if the work authorized by the permit is suspended or discontinued for a period of one (1) year.

**7.040 TEMPORARY USE PERMITS**

It shall be unlawful to commence construction or development of any use of a temporary nature, unless a permit has been obtained from the Town Building Inspector, as provided for in Article IV, Section 4.030, of this ordinance. Application for a Temporary Use Permit shall be made in writing to the Building Inspector on the form provided for that purpose. A schedule of fees shall be established by the Westmoreland Board of Mayor and Aldermen. Such schedule shall be posted in the office of the Building Inspector and Town Hall. Until the appropriate fee has been paid in full, no action shall be taken on any application.

**7.050 CERTIFICATE OF OCCUPANCY**

No land or building or other structure or part thereof hereafter erected, moved, or altered in its use shall be used until the Building Inspector shall have issued a Certificate of Occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy of 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 building or premises or part thereof is found to conform with provisions of this ordinance, or, if such certificate is refused, to state the refusal in writing with the cause for such refusal.

**7.060 PROCEDURE FOR AUTHORIZING SPECIAL EXCEPTIONS**

The following procedure is established to provide procedures for review of a proposed use by the Board of Zoning Appeals. The procedure shall be the same whether review is required by this ordinance, or whether a review is requested by the Building Inspector to determine whether a proposed use is potentially noxious, dangerous or offensive.

A. Application

An application shall be filed with the Board of Zoning Appeals for review. Said application shall contain the information required by Subsection 7.030, A, 2, above.

B. Criteria for Review

Prior to the issuance of a special exception, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provisions and arrangements have been made concerning all the following where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
2. Off-street parking and loading areas where required, with particular attention to the items in Item 1, above, and the economic, noise, vibrations, glare, or odor effects of the special exception on or by adjoining properties and properties generally in or near the district.
3. Refuse and service areas, with particular reference to the Items in 1 and 2, above.
4. Utilities, with reference to locations, availability, and compatibility.
5. Screening and buffering, with reference to type, dimensions and character.
6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility and harmony with properties in the district.

7. Required yard and other open space.
8. General compatibility with adjacent properties and other property in the district.

C. Restrictions

In the exercise of its approval, the Board may impose such conditions upon the proposed uses of buildings or land as it may deem advisable in the furtherance of the general purposes of this ordinance.

D. Validity of Plans

All approved plans, conditions, restrictions, and rules made a part of the approval of the Board shall constitute certification on the part of applicant that the proposed use shall conform to such regulations at all times.

E. Time Limit

All applications reviewed by the Board shall be decided within sixty (60) days of the date of application, and the applicant shall be provided with either a written notice of approval or denial.

#### **7.070 BOARD OF ZONING APPEALS**

In accordance with Section 13-7-205, Tennessee Code Annotated, a Westmoreland Board of Zoning Appeals, consisting of five (5) members, is hereby established. One of the members of the Board of Zoning Appeals shall be a member of the Planning Commission and one of the members shall be a member of the Board of Aldermen. All members of such Board shall be appointed by the Board of Aldermen.

A. Term of Office of Board Members, Removal, and Vacancies

The members of the Board of Zoning Appeals, except for the Planning Commission representative and the Board of Aldermen representative, shall serve for a three (3) year term, or until their respective successors are appointed and qualified. The Board first appointed shall serve respectively for the following terms: one for one (1) year, one for two (2) years, and one for three (3) years. The representatives on such Board from the Planning Commission and the Board of Aldermen shall serve coterminous with their terms of the Planning Commission and Board of Aldermen. All members of the Board of Zoning Appeals shall serve with such compensation as may be fixed by the Board of Aldermen and may be removed from membership on the Board of Zoning Appeals for continued absence or just cause. Any member being so removed shall be provided, upon his/her request, a public hearing upon the removal decision. Vacancies of said Board of Zoning Appeals shall be filled for the unexpired term of those members whose position has become vacant in the manner provided herein for the appointment of such member.

B. Procedure

Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. Such Chairman or, in his absence, the acting Chairman, may administer oaths and compel the attendance of

witnesses. All meetings of the Board shall be open to the public. The Board shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

C. Appeals to the Board

An appeal to the Westmoreland Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved by, or by any governmental office, department, board, or bureau affected by, any decision of the Building Inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals 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, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party may appear in person, by agent, or by attorney.

D. Stay of Proceedings

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Zoning Appeals, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such stay would cause imminent peril to life or property. In such instance, the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Building Inspector, and on due cause shown.

E. Appeal to the Court

Any person or persons or any board, taxpayer, department, or bureau of the Town aggrieved by any decision of the Board may seek review by a court of competent jurisdiction of such decision in a manner provided by the laws of the State of Tennessee.

F. Powers of the Board

The Board of Zoning Appeals shall have the following powers:

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, determination or refusal made by the Building Inspector and/or zoning administrator or other administrative official in the carrying out or enforcement of any provision of this ordinance.

2. Special Exceptions

To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the Zoning Map, and for decision on any special questions upon which the Board of Zoning Appeals is authorized to pass.

3. Variances

To hear and decide applications for variances from the terms of this ordinance.

**7.080 VARIANCES**

The purpose of a variance is to modify the strict application of the specific requirements of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the reasonable use of his land. The variance shall be used only where necessary to overcome some obstacle which is preventing an owner from using his property under this ordinance.

A. Application

After written denial of a permit, a property owner may make application for a variance, using any form which might be made available by the Board of Zoning Appeals.

B. Fee

The fee of one hundred dollars (\$100.00) payable to the Town of Westmoreland shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

C. Hearings

Upon receipt of an application and fee, the Board shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The Board shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

D. Standards for Variances

In granting a variance, the Board shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions, fully described in the finding of the Board, do not apply generally in the district.
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
3. For reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land.

4. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the persons applying therefore.

#### **7.090 AMENDMENTS TO THE ORDINANCE**

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed by the Board of Aldermen, of the Town of Westmoreland. Any member of the Board of Aldermen may introduce such legislation, or any official, board, or any other person may present a petition to the Board of Aldermen requesting an amendment or amendments to this ordinance. These amendments must be in relation to the general welfare of the community.

No amendment to this ordinance shall become effective unless it shall have been proposed by or shall have first been submitted to the Westmoreland Municipal Planning Commission for review and recommendation. The Planning Commission shall have thirty (30) days within which to submit its report. If the Planning Commission disapproves the amendment within the thirty (30) days, it shall require the favorable vote of a majority of the Board of Aldermen to become effective. If the Planning Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

No change or departure from the text or maps as certified by the Planning Commission shall be made, unless such change or departure be first submitted to the Planning Commission and approved by it, or, if disapproved, received the favorable vote of a majority of the entire membership or the Board of Aldermen.

Before enacting amendment to this ordinance, the Board of Aldermen shall hold a public hearing thereon, at least fifteen (15) days notice of the time and place of which shall be published in a newspaper of general circulation in the Town of Westmoreland.

##### **A. Fee**

A fee of twenty-five dollars (\$25.00) due and payable at the time of filing of petition shall be posted with requests to amend the zoning ordinance. The fee is to be used by the Town of Westmoreland to defray costs resulting from such petition and any subsequent amendment of the zoning ordinance.

#### **7.100 PENALTIES**

Any persons violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) for each offense. Each day such violations continue shall constitute a separate offense.

#### **7.110 REMEDIES**

In case any building or other structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this ordinance, the Building Inspector or any other appropriate authority or any adjacent or neighboring property owner who

would be specifically damaged by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, or reconstruction, alteration, repair, conversion, maintenance, or use; or to correct or abate such violation; or to prevent occupancy of such building, structure, or land.

**7.120 SEPARABILITY**

Should any section, clause, or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be valid or unconstitutional.

**7.130 INTERPRETATION**

Whenever the conditions of this ordinance require more restrictive standards than are required in or under any other statute, the requirements of this ordinance shall govern. Whenever the conditions of any other statute require more restrictive standards than are required by this ordinance, the conditions of such statute shall govern.

**7.140 EFFECTIVE DATE**

This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Certified by the Westmoreland Municipal Planning Commission.

March 26, 1984  
Date

Thomas F. Carter  
Dr. Thomas F. Carter, Chairman  
Westmoreland Municipal Planning Commission

Approved and adopted by the Board of Aldermen of the Town of Westmoreland, Tennessee.

July 16, 1984  
Date

Wayne Bentle  
Wayne Bentle, Mayor  
Westmoreland, Tennessee