

# Westmoreland Zoning Ordinance

Proposed Updates

Final Draft

2/9/2023

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**ARTICLE I**  
**ENACTMENT**

**SECTION**

- 1.010 Authority
- 1.020 Short Title
- 1.030 Repeal
- 1.040 Legislative Enactment
- 1.050 Intent and Purpose

**1.010 AUTHORITY**

An Ordinance, in pursuance of the authority granted by Sections 13-7-201 through 13-7-410, Tennessee Code Annotated, 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 lot occupancy, the size of open spaces, the density of population, and the uses of land, buildings, and other structures for trade, industry, residence, recreation, public activities, and similar purposes to include special districts for areas subject to flooding; to provide regulations governing non-conforming uses and structures; to provide for a board of appeals and for its powers and duties; to provide for permits; to provide for the administration and for enforcement; to provide penalties for the violation; and to provide for conflicts with other ordinance or regulations.

**1.020 SHORT 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 REPEAL**

The existing zoning regulations of the City of Westmoreland, as amended, are hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of an action to abate any existing violation of said existing regulations, as amended, if the violation is also a violation of this Ordinance.

**1.040 LEGISLATIVE ENACTMENT**

**WHEREAS**, Section 13-7-201 through 13-7-410, of the Tennessee Code Annotated, 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**, the Mayor and Aldermen, pursuant to the provisions of Section 13-4-401, of the Tennessee Code Annotated, has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

**WHEREAS**, the Planning Commission has divided the city and region into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, and

**WHEREAS**, the Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate uses for the land throughout the municipality, and

**WHEREAS**, the Planning Commission has submitted its final report to the Mayor and Aldermen, and

**WHEREAS**, the Mayor and Aldermen have given due public notice of hearings related to zoning districts, regulations, and restrictions, and has held public hearings, and

**WHEREAS**, all the requirements of Section 13-7-201 through 13-7-410, 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.

#### **1.050 INTENT and PURPOSE**

This ordinance is enacted pursuant to Title 13 of Tennessee Code Annotated for the following purposes:

- A. To promote and protect the public health, safety, morals, comfort, convenience, and general welfare of the people;
- B. To divide the city into zones and districts to restrict and regulate the location, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, commercial, manufacturing, and other specified uses;
- C. To protect the character and maintain the stability of residential, business, commercial, and manufacturing areas within the city, and to promote the orderly and beneficial development of such areas;



- D. To prohibit uses, buildings or structures, which are incompatible with the character of development or the permitted uses within specified zoning districts;
- E. To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;
- F. To limit congestion in the public streets and so protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and for the loading and unloading of commercial vehicles;
- G. To provide adequate light, air, privacy, and convenience of access to property;
- H. To assist 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. To prevent overcrowding of land and undue concentration of structures so far as is possible and appropriate in each district by regulating the use and the bulk of buildings in relation to the land surrounding them;
- J. To enhance the natural, man-made and historical amenities of Westmoreland, Tennessee.
- K. To define and limit the powers and duties of the administrative officers and bodies;
- L. To further the specific purposes stated in the various chapters throughout this Title;
- M. To implement the City's Land Use Plan;
- N. To implement the City's Thoroughfare Plan.

## **ARTICLE II DEFINITIONS**

### **SECTION**

- 2.010 Rules for Construction of Language
- 2.020 Definitions

### **2.010 RULES for CONSTRUCTION OF LANGUAGE**

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" or "will" is always mandatory and not discretionary.
- 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", "parcel", "piece", "tract", or "common area lot".
- G. The word "structure" includes all other structures, or parts thereof, of every kind regardless of similarity to buildings;
- H. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
- I. In the case of any difference of meaning or implication between the text of this Ordinance and any caption, illustration or table the text shall control.
- J. The word "permitted" or words "permitted as of right", means permitted without meeting the requirements for a special exception or not prohibited.
- K. The words "special exception" or "permitted by special exception" means permitted subject to the requirements for a special exception by special permit pursuant to Article XI of this Ordinance, and all other applicable provisions.
- L. Words used in the present tense shall include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- M. Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions or events shall apply.
  2. "Or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.
  3. "Either or" indicates that the connected items, conditions, provisions, or events shall apply single but not in combination.
- N. All public officials, bodies, and agencies to which reference is made are those of the City of Westmoreland, Tennessee.
- O. Any conflict between one section of this Ordinance and another section of the Ordinance shall be resolved in favor of the more restrictive provision.

## **2.020      DEFINITIONS**

Except where definitions are specifically included in various articles and sections, words in the text and tables of this Ordinance shall be interpreted in accordance with the provisions set forth in this section. Where words have not been defined, the standard dictionary definition shall prevail.

**ABANDON OR "ABANDONED"** – The discontinuance of an active use, site, operation or absence of an active or valid licensed business for more than 30 months. See TCA §13-7-208.

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

**ACCESSORY BUILDING/STRUCTURE**: A structure that is incidental or subordinate to a principal permitted structure, is located on the same lot or parcel as the principal structure and does not exceed the size of the principal use structure on the lot unless located within an industrial or agricultural zoning district. Typical accessory structures include, detached garages, storage buildings and sheds, decks and pavilions, gazebos, pool houses, swimming pools, fences, tree houses and other recreation facilities.

**ACCESSORY USE**: A use of the property that is incidental or subordinate to a principal permitted use, is generally located within a smaller building or structure or within the structure hosting the principal use and is located on the same lot as the principal use. No accessory uses shall be permitted on a parcel without first constructing or placing a principal use on the parcel/lot.

**ACTIVITY** - The performance of a function or operation which constitutes the use of land.

**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**: An establishment having as a substantial or significant portion of its stock in trade books, magazines, other periodicals as well as films or recordings that are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in Adult Entertainment, for observation by patrons therein.

**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:**

1. *Specified Anatomical Areas:* Less than completely and opaquely covered: (a) Human genitals, pubic region; (b) Buttock; (c) Female breasts below a point immediately above the top of the areola; or (d) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
2. *Specified Sexual Activities:* (a) Human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**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 Adult Entertainment, for observation by persons in the building.

**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 in Adult Entertainment, for observation by persons in the building.

**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/ACTIVITIES** – Land uses that consist of commercial production of crops, animal raising, and related accessory uses, farm equipment storage, sale of agricultural products produced on the farm, operation and repairs of equipment used on the farms and not brought in from other farms or non-farm properties, necessary for the commercial production of farm products, but shall exclude industrial scale processing or manufacturing of food products. See TCA §43-1-113, §43-34-104, §43-34-103, §4-31-102, §43-37-101, §6-54-126, §43-26-102, §13-7-114, §44-18-101, §70-8-305 (8).

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

**AGRICULTURAL USES AND PURPOSES** – consists of the commercial production of agricultural activities and associated events that occur on the agricultural lands that are intended to provide an income from/for the agricultural property and the facilities necessary to support such activities.

**AGRICULTURAL EXEMPTION** – properties that are exempt from complying with restrictions in the zoning ordinance because the agricultural activities have continuously occurred on the property before establishment of the current land development regulations. Continuous means that the activity has not ceased for more than thirty (30) months and is not intended to include inactivity because of the secession in the growing seasons.

**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.

**ANIMAL CARE** – Any structure, land or combination thereof used, designed or arranged for the boarding, medical care and grooming of domestic animals.

**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.

**ASSISTED LIVING FACILITY** - A residential group home for senior adults that need help with activities of daily living such as meals, medication, grooming, in order to maintain the whole person.

**ATTACHED** - Joined together by party wall(s).

**AUTOMOTIVE DISASSEMBLY, PARTS RECYCLING AND MATERIALS RECOVERY OPERATIONS** - An establishment where automobiles and trucks are disassembled and processed for resale or reuse, including recycling, or where automobiles are temporarily stored until disassembled or sold as parts. This use is not intended to be a permanent storage of inoperable and unlicensed vehicles.

**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.

**AUTOMOTIVE PARKING LOT** - A ground-level improved area (ground or garage), not within a street, used as a principal or accessory use with stabilized or paved surface used to temporarily park licensed motor vehicles for short periods of time, containing three (3) or more parking spaces.

**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.

**BUFFERING:** Shall be located around the perimeter of the site to minimize the off-site impact of headlight glare, noise, light from structures and open areas, and the movement of people and vehicles. Buffering may consist of berms, fencing, evergreens, shrubs, bushes, deciduous trees or combinations thereof to achieve the stated objective. Type of buffering with height shall be stated on the site plan for approval by the planning commission.

**BUFFERYARD** - A designated area of a lot with a combination of plant material(s), barriers, and/or berms.

**BUILDING:** Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property. A building shall not include such structures as billboards, fences, radio or TV towers, or structures not normally accessible for human use, such as gas storage tanks, smoke stacks, grain elevators, exposed industrial equipment (i.e., oil or chemical processing apparatus) or similar structures. Where roofed structures are separated from each other by party walls having no openings for passage, each portion so separated shall be considered a separate building.

**BUILDING ENVELOPE OF A LOT:** The portion of a lot bounded by the required rear yard, side yards, and the front yard line that is the area of the lot where buildings and structures are permitted.

**BUILDING, PRINCIPAL:** The building located on a lot where the principal land use is conducted/occurs.

**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 in Section 5.040, 5.060, and 5.070.

**BUILDING YARD 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 YARD 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 YARD LINE, SIDE:** A line delineating the minimum distance between the side property line and a building on a lot (other than for permitted accessory structures). The side setback line extends from the front building setback line to the rear building setback line.

**BULK REGULATIONS:** Describes the minimum required area for a lot or building site, the required minimum yards for a zoning district or the dimensions required for a zoned or platted lot.

**BUSINESS AND COMMUNICATION SERVICES:** A building where activities that support business operations are conducted including clerical, administrative, communication processing, computer servicing and operations hubs, copying/reproduction, computer servicing and maintenance, business equipment sales and repair, advertising, accounting, and similar services normally associated with business support services. This excludes the printing of books, other than pamphlets and small reports.

**CAMPGROUND:** 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, magazines, and sundry items. 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.

**CREMATORIUM** – A facility, licensed by the State, containing properly installed and maintained equipment for use in the act of cremation.

**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.

**DENSITY, OVERALL** - The dwelling units per gross acre of the total area with a development.

**DEVELOPER** – The person or entity responsible for constructing or making improvements to a development site and who may contract with others to perform construction on a site.

**DEVELOPMENT:** 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, 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 (1) of the following categories:

- (a) **Single-Family Detached Dwelling:** A one-family dwelling entirely separated from structures on adjacent lots. This includes single residential dwelling units

constructed on a foundation including modular homes constructed off site and placed on a foundation as described in Sections 68-126-301 – 68-26-310 and Sections 13-24-201 through 13-24-202, Tenn. Code Annotated., but excludes mobile homes.

- (b) Duplex Dwelling: A residential building principally used, designed, or adapted to contain two (2) dwelling units for occupancy by no more than two (2) families. The dwelling units must be completely separate units.
- (c) Attached Dwelling: 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) Multi-Family Residential Dwelling: A building containing three (3) or more dwelling units. This term includes apartments, cooperative apartments, townhomes, and condominiums.
- (e) Upper Story Residential Dwelling: Upper story residential means the area of a commercial building above the ground floor (which is above the cellar), which is principally used, designed, or adapted for use by one (1) or more households each of which has separate living quarters.
- (f) Rooming House: A building 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: A building principally used, designed, or adapted to provide living accommodations for not more than six (6) occupants and having common cooking and dining facilities.
- (h) Manufactured Residential Dwelling: means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or 40 body feet in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code. (also see T.C.A. 12-24-201).



- (i) **Mobile Home:** 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.

**DWELLING UNIT:** A room(s) connected, constituting a separate independent housekeeping establishment for one-family only, for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking, and sleeping facilities. For regulatory purposes, the term is not to include travel trailers, housing mounted on self-propelled or drawn vehicles, tents, or other forms of portable or temporary housing.

**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.

**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.

**FARMING**— See Agricultural Use/Activities.

**FINANCIAL, INSURANCE, and REAL ESTATE SERVICES:** Financial, insurance, and real estate brokerage services including the provision of advice, designs, information, consultations of a professional nature and full-service banks. This does not include commercial financial facilities such as short-term loan stores, pawn shops, payday loan facilities or similar type lending facilities.

**FLOOR AREA:** - The total of the gross horizontal areas of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the center lines of party walls separating such buildings or portions thereof, or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof without walls, but excluding the following:

1. Areas used for off-street parking spaces or leading berths and driveways and maneuvering aisles where required in this Ordinance.
2. In the case of non-residential facilities: arcades, porticos, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

**FRONTAGE:** All the property on one side of a street measured along such street, between lot lines, an intercepting street, a right-of-way, an end of a dead-end street, a river, a lake or government boundary.

**FOOD SERVICE:** – A retail restaurant where food and beverages are prepared on site and provided to patrons for consumption on or off-site within a building or a designated outdoor dining area, or from a drive-in window or within vehicles.

**FUNERAL HOME** – A structure and use for conducting human funeral services and may include related accessory services such as funeral item sales and undertaking services except for cremation services.

**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.

**GENERAL RETAIL SALES** – a commercial facility or business offering the sales or rental of consumer goods on-site, including pet sales, to customers for removal from the site after purchase, except for motor vehicles sales.

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

**GROUP HOME** – An arrangement for residential living of non-mentally ill persons wherein the residents are assigned to a licensed home cared for by others not permanently living in the home. (Reference T.C.A. 13-24-101)

**GROSS AREA** - An area of land which is inclusive of all land uses and streets, and other public areas located within a single development.

**HALFWAY HOUSE** – A residential facility operated by licensed supervisory personnel for persons assigned by a state authority to transition from a higher level of community control to less restrictive community control. Such facilities may include persons serving a portion of a sentence for prior criminal activity, mental or behavioral abnormalities, or substance abuse.

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

**HEIGHT OF BUILDING/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:** A home occupation is a lawful activity carried on within a dwelling unit by a member or members of the family who occupy the dwelling, except for one (1) additional person, where the occupation is secondary to the use of the dwelling for living purposes, and the residential character of the dwelling is maintained, and the Home Occupation conforms to the development standards in Article X, Section 10.040.

**HOSPITAL:** See Medical Facilities.

**HOTEL:** – A commercial transient habitation or lodging facility, constructed of two (2) or more stories accessible from interior lobbies, courts or halls, providing overnight accommodations and accessory uses such as meeting rooms, restaurants and recreation facilities intended for the guests.

**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.

**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)**

**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 (1) ownership, which may include one (1) or more lots or record, occupied or to be occupied by one (1) principal building and its accessory buildings, including the open spaces required under this ordinance.

**LOT AREA:** The entire area of a zone lot.

**LOT AREA PER DWELLING UNIT:** That portion of the lot area required for each dwelling unit located on a zone lot. This may also be known as the development-area per dwelling unit.

**LOT, CORNER:** A lot with two (2) property lines that face a public or private right-of-way.

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

**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 LINE:** 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.

**MANUFACTURED HOME:** See Dwelling, Manufactured Residential Dwelling.

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

**MESSAGE PARLOR:** An establishment or place primarily in the business of providing massage and/or tanning services.

**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:** See Dwelling: Mobile Home.

**MOBILE HOME PARK:** Any area, tract, site or plot of land where mobile homes, as defined in this ordinance, located or maintained, and includes all accessory buildings used or intended to be used as part of the development.

**MOBILE HOME SPACE** - A designated area within a mobile home park for the placement of a mobile home.

**NON-COMPLYING:** Any lawful building or other structure which does not comply with any one (1) or more of the applicable bulk regulations, or any lawful use other than a non-conforming use, which does not comply with any part of any one (1) or more of the applicable regulations pertinent to: 1. Location along district boundary; 2. Signs; or 3. Accessory off-street parking and loading; either on the effective date of this Ordinance or as a result of any subsequent amendment.

**NONCONFORMING USE:** A lawful use of a building or other structure or of a tract of land which does not conform to any one (1) or more of the applicable use regulations of the district in which it is located, either on the effective date of this Ordinance or as a result of any subsequent amendment.

**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 a person's 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 (1) motor vehicle and having an area of not less than one hundred-eighty (180) square feet exclusive of passageways and driveways giving access thereto, and having access to a street or alley. Parking spaces shall have minimum dimensions of nine (9) by eighteen (20) feet.

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

**PLAT:** A map, drawn to scale, indicating the location and boundaries of individual properties.

**PLOT PLAN:** A graphic depiction, drawn to an appropriate scale, indicating the dimensions of the lot or parcel which is the subject of an application for a zoning district amendment, building permit, or special use permit including a legal description of such lot or parcel and the location of the lot or parcel in relation to adjacent street right-of-way.

**PRINCIPAL BUILDING** - A building which contains the principal activity or use located on a zone lot on which it is situated.

**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 Tennessee Department of Environment and Conservation (TDEC).

**PROFESSIONAL OFFICE:** The office of a physician, dentist, attorney, architect, engineer, planner, accountant, or other persons holding advanced degrees from institutions of higher learning in the field in which they practice. The term may also include insurance agents, insurance adjustors, realtors, or any persons engaged in sales or trade which utilize an office environment without display or storage space for goods.

**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.

**RECREATIONAL VEHICLE:** A vehicle designed as a temporary dwelling for travel, recreation, and vacation uses.

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

**ROAD:** A publicly maintained right-of-way, other than an alley, that affords a means of vehicular access to abutting property.

**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.

**SETBACK:** A minimum distance a building or other improvement shall be placed on a lot from another building or property line and/or street. Also see Yard, Front, Side and Rear.

**SIGN, BILLBOARD, OR OTHER ADVERTISING DEVICE:** Any structure, or device which displays or includes 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 word flag, pennant, or insignia of any nation, state, city, or other political unit.

Any writing (including letter, word, or numeral); pictorial presentation (including illustration or decoration) containing a commercial or non-commercial message or representation of services or products provided on the property; emblem (including device, graphic, symbol, or trademark); flag (including banner or pennant); inflatable structure; or any other figure or similar character, which: 1. Is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure, and; 2. Is used to announce, direct attention, or advertise.

**Billboard:** An off-premises sign that is affixed to or erected upon a freestanding framework that directs attention to a profession, business, commodity, service, product or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

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

**Flashing Sign:** Any sign that flashes or blinks, appears to flash or blink or gives a spectacular or twinkle illusion.

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

**Illuminated Sign:** A sign lighted by or exposed to artificial lighting either by lights on or in the sign not directed toward the sign.

**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 which is a canopy or covered structure projecting from and supported by a building.

**Off-Premises Sign:** A permanent or temporary sign that directs attention to a profession, business, commodity, service, product, event or entertainment not located or sold on the premises on which the sign is located.

**On-Premises Sign:** Any sign identifying or advertising a profession, business, commodity, service,

product, event or entertainment located on the premises where the sign is installed and maintained.

**Pole Sign:** A type of ground sign at least ten (10) feet above the ground supported on a single post or pole.

**Roof Sign:** A sign erected on a roof or signs that project above the highest point of the roof line.

**Temporary Sign:** A sign intended to display messages of a temporary nature. Portable signs or any sign not permanently embedded in the ground or permanently affixed to a building or structure embedded in the ground are considered temporary signs.

**Wall Mounted Sign:** A sign fastened parallel to or painted on a wall of a building or structure in such a manner that the wall is the supporting structure for or forms the background surface of the sign.

**SPECIAL EXCEPTION:** Land uses that require approval by the Board of Zoning Appeals prior to the issuance of a zoning permit according to the provisions of Article XI, Section 11.090 of this ordinance.

**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, or menstruation as part of or in connection with any activities set forth in "a" through "f", above.

**STORY:** The part of a building included between the upper surface of any floor and the upper surface of the next floor above; or any portion of a building between the topmost floor and the roof. 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 road, highway, or thoroughfare that provides or is designed to provide, the main access to more than one (1) lot, and which has been legally dedicated and accepted for public use.

**STRUCTURE:** Any erected or constructed material or combination of materials that requires a location on the ground or below ground level, including but not limited to buildings, signs, towers, smokestacks, and overhead transmission lines.

**SUBDIVISION:** The division of a tract, lot or parcel of land into two (2) or more lots, sites, or other divisions requiring new street or utility construction, or any division creating a lot area of less than five (5) acres, for the purpose, whether immediate or future, of sale or building development, and includes re-subdivision, and when appropriate to the context, relates to the process of re-subdividing or to the land or area subdivided. (see T.C.A. § 13-3-401 (4)(B) and T.C.A. §13-4-301 (B)(i)).

**SURETY:** A financial guarantee in the form of cash, a certified check, or an Irrevocable Letter of Credit, drawn from a bank, necessary to ensure the fulfillment of an obligation by the owner/developer for the cost of construction for public improvements on private property authorized by a development order/zoning permit or other approval issued by the city.

**SUBSTANDARD LOT OF RECORD:** Where the owner of a lot of record, as defined in this Article, does not own sufficient land to enable him or her to conform to the yard and other bulk regulations of this zoning ordinance. Such lot may be used as a building site by the same or a subsequent owner provided that the yard lines and other bulk regulations, other than lot size, shall conform to the requirements of the zone district in which it is located. The lot must have been of official record as of the adoption date of zoning in Westmoreland, Tennessee.

**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:** See Recreational Vehicle.

**TRAVEL TRAILER PARK:** See Recreational Vehicle Park.

**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.

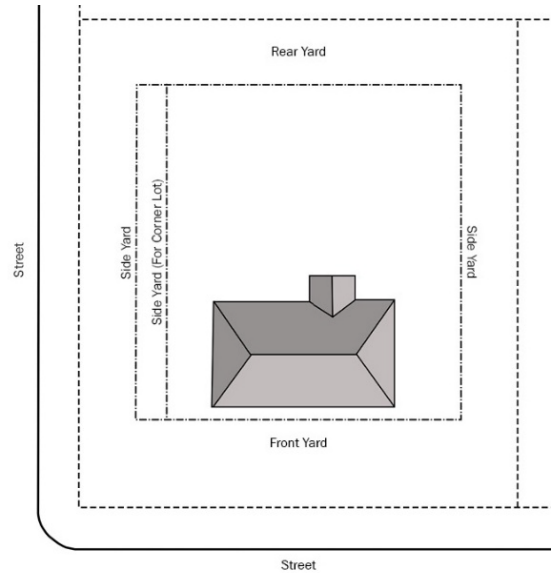


**YARD:** A required open space on a lot between a lot line and a building or structure which is unoccupied and unobstructed from the ground to the sky.

**YARD, FRONT:** A yard extending along the full length of a front lot line at a depth as required in Article VI of this ordinance.

**YARD, REAR:** A yard extending for the full length of a rear lot line at a depth as required in Article VI of this ordinance.

**YARD, SIDE:** A yard extending along a side lot line from the required front yard to the required rear yard at a depth as required in Article V of this ordinance. In the case of a corner lot, any yard which abuts a street line and which is not designated a front yard shall be considered a side yard and shall be twice the required minimum depth for a side yard as required in Article VI of this ordinance.



**ARTICLE III**  
**ESTABLISHMENT OF DISTRICTS AND LAND USE CLASSIFICATION**

**SECTION**

- 3.010 Regular Zone Districts
- 3.020 Special Zone Districts
- 3.030 Official Zoning Map Provisions
- 3.040 General Classification Rules
- 3.050 List of Activity Classifications
- 3.060 Accessory Uses
- 3.070 Classification of Combination of Principal Activities
- 3.080 Administrative Standards

**3.010 REGULAR ZONE DISTRICTS:**

In order to implement all purposes and provisions of this Ordinance, the following districts are established:

- A. Residential Zone Districts
  - AG – Agricultural
  - Low Density Residential – R-1
  - Medium Density Residential – R-2
  - High Density Residential- R-3
- B. Commercial Zone Districts
  - Central Business District – C-1
  - Highway Service – C-2
  - Restricted Office, Medical and Commercial – C-3
- C. Mixed Use Zone Districts
  - Mixed Use – MU
- D. Industrial Zone Districts
  - General Industrial – I-1
  - Heavy Industrial – I-2

**3.020 SPECIAL ZONE DISTRICT**

- A. Floodplain
- B. Historic Zoning

### **3.030 OFFICIAL ZONING MAP PROVISIONS**

#### **A. Incorporation of Maps**

The boundaries of districts established by this Ordinance are shown on the Official Zoning Maps which are hereby incorporated into the provisions of this Ordinance. The zoning maps in their entirety, including all amendments shall be as much a part of this Ordinance as if fully set forth and described herein.

#### **B. Identification and Alteration of Official Zoning Map**

1. The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Recorder, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 3.00 of Ordinance Number \_\_\_\_\_ of the City of Westmoreland, Tennessee," together with the date of the adoption of this Ordinance.
2. If, in accordance with the provisions of this Ordinance and Tennessee Code Annotated Section 13-7-212, , changes are made in district boundaries or other matter portrayed on the Official Zoning Map, after the amendment has been approved by the Mayor and Aldermen by official action of the Mayor and Aldermen, the following (change) changes were made in the Official Zoning Map: "(brief description of the nature of change)," which entry shall be signed by the Mayor and attested by the City Recorder.
3. No amendment to this Ordinance, which involves matter portrayed on the Official Zoning Map, shall become effective until after such change and entry has been made on said map.
4. No changes of any nature shall be made in the Official Zoning Map except changes that are in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided in Article XI, Section 11.120 of this Ordinance.
5. Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map shall be the map located in the office of the Building Official. Only the Official Zoning Map is to be used as the current zoning status of land and water areas, buildings, and other structures in the city.

#### **C. Replacement of Official Zoning Map**

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Mayor and Aldermen may, by ordinance, adopt a new Official Zoning Map which shall supersede the prior Zoning Map. The New Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment. The new Official Zoning Map shall be identified by the signature of the

Mayor attested by the City Recorder, and bearing the seal of the city under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (Add Date and Year), as part of Ordinance No. XXX of the City of Westmoreland, Tennessee.”

2. All prior Official Zoning Maps or any significant parts thereof shall be preserved, together with all available records pertaining to their adoption or amendment.

C. Rules for Interpretation of District Boundaries

When uncertainty exists as to the boundaries of districts shown on the Official Zoning Map, the following shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be interpreted to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be interpreted as following lot lines;
3. Boundaries indicated as approximately following city limits shall be interpreted as following such city limits;
4. Boundaries indicated as following railroad lines shall be interpreted to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be interpreted to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line;
6. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be interpreted to follow such center lines;
7. Boundaries indicated as parallel to or extensions of features indicated in Section 3.030(E)(1) through Section 3.030(E)(5) shall be interpreted as such. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of map.
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Section 3.030(E)(1) through Section 3.030(E)(6), the Board of Appeals shall interpret the district boundaries.

**3.040 GENERAL CLASSIFICATION RULES:**

- A. The provisions of this section shall be known as the Activity or Land Use Classifications. The purpose of these provisions is to classify uses into a number of specifically defined

types on the basis of common functional characteristics and similar compatibility with other uses, which provides a basis for regulation of uses in accordance with criteria which are directly relevant to the public interest. These provisions shall apply throughout the zoning regulations.

- B. Where there is a question concerning the appropriate activity classification for any use not listed herein, the Building Official and or their designee shall make the determination based upon the characteristics of the unlisted use.

### **3.050 LIST OF ACTIVITY CLASSIFICATIONS:**

Land uses are hereby classified into the following activity types. Property that is vacant (without an existing land use) shall not constitute an activity type.

#### **3.050.1 Residential Activities:**

- A. Permanent
  - 1. Single-Family Detached Dwelling
  - 2. Duplex Dwelling
  - 3. Attached Residential Dwelling
  - 4. Multi-family Residential Dwelling
  - 5. Upper Story Residential Dwelling
  - 6. Manufactured Residential Dwelling
  - 7. Mobile Home
  - 8. Mobile Home Park
- B. Semi-Permanent/Transient
  - 1. Rooming House
  - 2. Boarding House
  - 3. Hotel/Motel
  - 4. Bed and Breakfast

#### **3.050.2 Community Facilities Activities:**

- A. Community Assembly
  - 1. Community Centers
  - 2. Exhibition Halls
  - 3. Parochial and Private, Non-Profit Clubs and Lodges,
  - 4. Private recreation centers and areas
  - 5. Temporary Non-profit Festivals
- B. Community Education
  - 1. Public, Parochial, and Private Nursery Schools, kindergartens, primary and secondary schools
  - 2. Orphanages
- C. Essential Services
  - 1. Private Streets
  - 2. Rights-of-Way for all modes of transportation
  - 3. Public Open Spaces and Nature Reserves/Preserves

4. Public Community Centers and Recreation Areas (Playgrounds, Sports Fields, etc.)
5. Utility Facilities (Without Storage Yards) Necessary for Provision of Public Services.
6. Government Buildings (City Hall, Public Libraries, etc)

D. Extensive Impact Community Facilities

1. Sanitary Landfills
2. Transmission Stations (Radio and Television)
3. Electric Transmission Lines and Fuel Transmission Lines
4. Detention and Correction Facilities
5. Aeronautical Facility (Airports, Heliports, Etc.)
6. Wastewater Treatment Plants

E. Health Care Facilities

1. Hospitals
2. Centers for Observation and/or Rehabilitation

F. Intermediate Impact Community Facility

1. Cemeteries, Mausoleums, and/or Columbarium
2. Crematorium
3. Colleges, Junior Colleges, and Universities
4. Commercial Marina and Boat Docks
5. Water Towers, Water Tanks, and Reservoirs
6. Crematorium (Industrial Districts Only)

G. Limited Child and Adult Care Community Facilities

1. Limited Child Care Facilities
2. Limited Adult Care Facilities

H. Cultural Community Facilities

1. Public, Parochial and private non-profit museums and art galleries
2. Public, Parochial and private non-profit libraries

I. Nursing Home and Assisted Living Facilities

1. Nursing Home
2. Assisted Living Facilities

J. Place of Worship

1. Churches, Temples, Synagogues, Mosques, etc.

K. Utility and Vehicular Community Facilities

1. Electrical Substations
2. Gas Substations
3. Police Stations
4. Fire Stations
5. Post Offices – Excluding Mail Processing Centers

### **3.050.3 Commercial Activities:**

- A. Animal Care (Animal Care, Treatment and Boarding)
- B. Automotive Parking
- C. Automotive Repair and Cleaning
- D. Automotive Servicing and Cleaning Commercial
- E. Automotive Disassembly, Parts Recycling and Material Recovery Operations
- F. Bed and Breakfast
- G. Construction Materials Sales and Services
- H. Landry Services/Dry Cleaning
- I. Convenience Sales and Services (Gas Station, Drug Store, etc.) (Subject to Provisions in Article X, Section 10.020)
- J. Financial, Insurance, and Real Estate Services
- K. Food Services
- L. Personal Services (Other than Financial, Insurance, Real Estate, Barber, Salon, Attorney)
- M. General Retail Sales
- N. General Professional Office
- O. Group Assembly
- P. Medical Office and Services
  - 1. Dentist
  - 2. Physicians
  - 3. Outpatient Clinic
  - 4. Other Practitioners
- Q. Newspaper and Print Shops
- R. Retail Business Supply
- S. Scrap Operations
- T. Transient Habitation
- U. Travel Trailer Parks and Overnight Campgrounds (Need Supplemental Regs)
- V. Transport and Warehousing
- W. Funeral Services
- X. Wholesale Sales
- Y. Self-Storage/Mini-Warehouse
- Z. Adult Entertainment

### **3.050.4 Industrial Activities:**

**(Land Use Names Based on North American Industrial Classification)**

#### **A. Limited Manufacturing/Industrial**

- 1. Food Manufacturing – Except:
  - a) Animal Food Processing
  - b) Fats and Oil Refining and Blending
  - c) Animal Slaughter and Processing
- 2. Beverage and Tobacco Product Manufacturing
- 3. Textile Mills and Textile Products (Including Carpets and Rugs)
- 4. Clothing/Apparel Manufacturing
- 5. Wood Product Manufacturing - Except Sawmills
- 6. Chemical Manufacturing – Except:
  - a) Resin, Rubber and Artificial Fiber Manufacturing

- b) Agricultural Chemical Manufacturing
  - c) Explosives Manufacturing
- 7. Non-Metallic Product Manufacturing – Except:
  - a) Glass and Glass Product Manufacturing
  - b) Cement and Concrete Product Manufacturing
- 8. Computer and Electronic Product Manufacturing
- 9. Machinery Manufacturing: Tool, Die, Jig, and Fixture Manufacturing
- 10. Truck Terminal Facility
- 11. Automotive and/or Truck Parking Lot: Short and Long Term
- 12. Wholesale Trade

**B. Intermediate Manufacturing/Industrial**

- 1. Cotton Ginning
- 2. Animal Food Manufacturing
- 3. Fats and Oil Refining and Blending
- 4. Footwear Manufacturing
- 5. Basic Chemical Manufacturing – Except:
  - a) Resins, Synthetic Rubber and Artificial Synthetic Fibers and Filaments Manufacturing
  - b) Pesticides and Other Agricultural Chemical Manufacturing
  - c) Explosive Manufacturing
- 6. Non-Metallic Product Manufacturing
- 7. Rolling and Drawing Pulled Steel, Aluminum, or Copper
- 8. Secondary Smelting and Refining of Aluminum
- 9. Fabricated Metal Product Manufacturing
- 10. Machinery Manufacturing
- 11. Electrical Equipment and Appliance Manufacturing
- 12. Furniture and Related Product Manufacturing

**C. Extensive Manufacturing/Industrial**

- 1. Sawmills and Wood Preservation
- 2. Paper Manufacturing (Including Pulp, Paper and Paperboard Mills)
- 3. Petroleum and Coal Product Manufacturing
- 4. Resin, Rubber, Artificial Fibers Manufacturing
- 5. Agricultural Chemical Manufacturing
- 6. Rubber Product Manufacturing
- 7. Glass and Glass Product Manufacturing
- 8. Cement and Concrete Products Manufacturing
- 9. Transportation Equipment Manufacturing and Re-Fabrication
- 10. Scrap Material Processing – Automotive Wrecking and Salvage
- 11. 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.
- 12. Mining Activities, Quarrying and Related Services.



### **3.050.5 Agricultural Activities:**

- A. Crops and Animal Raising
- B. Plant Nursery

### **3.060 ACCESSORY USES:**

In addition to the principal activities expressed above, each activity type shall be deemed to include activities customarily associated with, and appropriate, incidental, and subordinate to the principal activity. The accessory uses permitted are presented within the regulation section of each zone district in Article VI.

### **3.070 CLASSIFICATION OF COMBINATION OF PRINCIPAL ACTIVITIES:**

The following rules shall apply where a single zone lot contains activities which resemble two (2) or more different activity types and which are not classified as accessory activities.

#### **A. Separate Classification of Each Establishment**

- 1. The principal land use on a single zone lot by each business or institution shall be classified separately.

#### **B. Separate Classification of Different Major Classes of Activities Occurring by a Single Business**

- 1. If the principal land uses occurring at a single business, establishment, or institution come under two (2) or more different major land use classifications [Residential, Community Facilities, Commercial, Industrial, or Agricultural] the principal land uses of each major class shall be classified separately.

### **3.080 ADMINISTRATIVE STANDARDS:**

Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decisions, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.

## **ARTICLE IV LEGAL STATUS**

### **SECTION**

- 4.010 Interpretation
- 4.020 Relationships to Other Laws and Private Restrictions
- 4.030 Ordinance Provisions Do Not Constitute Approval
- 4.040 Provision Are Cumulative
- 4.050 Severability
- 4.060 Application of Regulations
- 4.070 Scope of Regulations
- 4.080 Exceptions, Variances, and Special Exceptions
- 4.090 Renewals of Special Exceptions
- 4.100 Change of Use
- 4.110 Effective Date

#### **4.010 INTERPRETATION**

- A. In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety, and welfare.

#### **4.020 RELATIONSHIP TO OTHER LAWS AND PRIVATE RESTRICTIONS**

- A. Where the conditions imposed by any provisions of this Ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance or any other law, or ordinance, of any kind, the provisions which are more restrictive shall apply.
- B. This Ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this Ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this Ordinance to the extent that they are more restrictive shall govern.

#### **4.030 ORDINANCE PROVISIONS DO NOT CONSTITUTE APPROVAL**

- A. Nothing contained in this Ordinance shall be deemed to be a consent, license, or permit to use any property or locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation, or activity.

#### **4.040 PROVISIONS ARE CUMULATIVE**

- A. The provisions of this Ordinance are cumulative with any additional limitations imposed by all other laws and Ordinances passed or which may be passed in the future governing any subject matter appearing in this Ordinance.

#### **4.050 SEVERABILITY**

- A. It is hereby declared to be the intention of the Mayor and Aldermen of the City of Westmoreland, Tennessee, that the provisions of this Ordinance are separable in accordance with the following:
1. If any court of competent jurisdiction shall adjudge any provision of this Ordinance invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
  2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

#### **4.060 APPLICATION OF REGULATIONS**

- A. No structure shall be constructed, erected, placed or maintained and no land use commenced or continued within the city except as specifically or by necessary implication, authorized by this Ordinance. Special Exception uses are allowed only on permit granted by the Board of Zoning Appeals upon finding that the specified conditions have been satisfied. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

#### **4.070 SCOPE OF REGULATIONS**

A. New Uses, Lots, Buildings or Other Structures:

1. Upon the effective date of this Ordinance any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk and all other applicable provisions of this Ordinance.

B. Existing Uses, Lots, Buildings, or Other Structures

1. Any existing use legally established prior to the effective date of this Ordinance which does not comply with its provisions shall be subject to the non-conforming use provisions in Article VII of this Ordinance.
2. Any existing lot, parcel, building, or other structure legally established prior to the effective date of this Ordinance which does not comply with its provisions, other than use provisions, shall be subject to the non-complying regulations in Article VII of this Ordinance.

C. Alteration of Existing Buildings and Other Structures

1. All structural alteration or relocation of existing buildings or structures occurring after the effective date of this Ordinance and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses, or land shall be located.

#### **4.080 EXCEPTIONS, VARIANCES AND CONDITIONAL USES**

- A. Whenever the Zoning Ordinance in effect at the time of adoption of this Ordinance has authorized any use which is not permitted as of right by issuing a variance, special exception, or permit to locate in a district, such authorization may be continued, changed, extended, enlarged, or structurally altered only as set forth in Article XI.

#### **4.090 RENEWALS OF SPECIAL EXCEPTION PERMITS**

- A. Where no limitation of a use was imposed at the time of authorization, such use may be continued.
- B. Where such use was authorized subject to a term of years, such use may be continued until the expiration of the term, and thereafter, the agency or similar constituted agency which originally authorized such use may terminate or modify with appropriate conditions and safeguards, the use to minimize adverse effects of such use on the character of the neighborhood.

#### **4.100 CHANGE OF USE**

- A. For the purposes of this section, a change of 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 in use.
- B. In no event shall a Special Exception permit be changed, and no agency shall be empowered to permit such use to be changed, except to a use that is permitted by right and is conforming to the regulations for the zone district of the property where the structure and use is located.

#### **4.110 EFFECTIVE DATE**

**[Information Will Be Added After Approval by Mayor and Alderman]**

## **ARTICLE V GENERAL PROVISIONS**

### **SECTION**

- 5.010 Scope
- 5.020 Only One (1) Principal Building on Any Lot
- 5.030 Lot Must Abut a Public Street
- 5.040 Corner Lots
- 5.050 Exceptions to Height Limitations
- 5.060 Rear Yard Abutting a Public Street
- 5.070 Exceptions to Front Setback Requirements
- 5.080 Absolute Minimum Lot Size
- 5.090 Exception to Lot Width Requirements
- 5.100 Reduction in Lot Area Prohibited
- 5.110 Accessory Use Regulations
- 5.120 Accessory Structures
- 5.130 Administrative Site Plan Approvals
- 5.140 Temporary Use Regulations

#### **5.010 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.

#### **5.020 ONLY ONE (1) PRINCIPAL BUILDING ON ANY LOT:**

Only one (1) principal building and its customary accessory building(s), as defined in Section 2.020, may hereafter be erected on a single residential lot. Recreational Vehicles, single-wide mobile homes, and any prefabricated storage buildings shall not be permitted as an accessory structure on any residentially zoned lot for the purpose of human habitation.

This requirement does not prohibit apartments, multi-family dwellings, mobile home parks or other similar complexes.

#### **5.030 LOT MUST ABUT A PUBLIC STREET:**

No building permit 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 a minimum road frontage of twenty-five (25) feet.

#### **5.040 CORNER LOTS:**

The side yard setback requirements for corner lots shall be double the required side yard requirement for the lot.

#### **5.050 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.

**5.060 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 front 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. Also, any structure located within twenty-five (25) feet of that setback line shall match the required side yard depth as required on adjoining properties fronting on that street.

**5.070 EXCEPTIONS  
TO FRONT SETBACK  
REQUIREMENTS:**

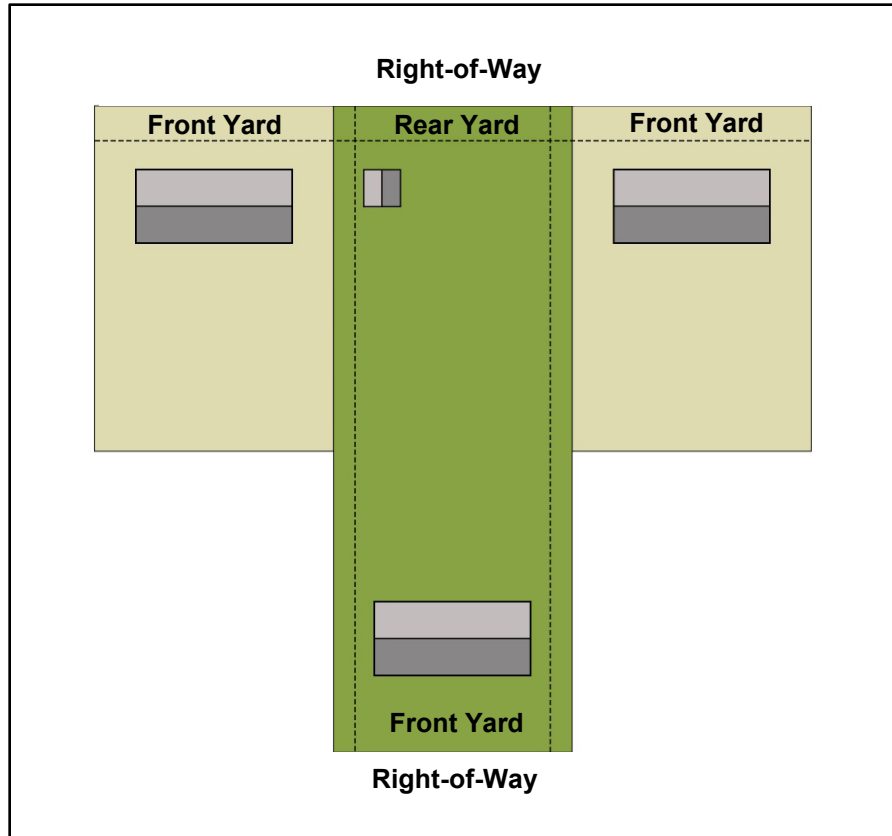
The front setback requirement of this ordinance for dwellings shall not apply to any lot where the average depth of existing setbacks on the developed lots located within one hundred (100) feet on each side of such lot is less than the minimum required front yard depth. In such cases, the front yard 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.

**5.080 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 seventy-five (75) feet in width at its narrowest point, or has a front yard line of less than thirty (30) feet and a side yard line of less than ten (10) feet, with the exception of officially approved planned development.

**5.090 EXCEPTION TO LOT WIDTH REQUIREMENTS:**

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. (Amended by Ordinance 336, August 16, 1999)



**5.100 REDUCTION IN LOT AREA PROHIBITED:**

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that its yards, lot area per family, lot width, building area, or other requirements of the Zoning Ordinance are not maintained or satisfied. This section shall not apply when a portion of a lot is acquired for a public purpose.

**5.110 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. Be smaller in square footage than the existing primary structure located on the same parcel/lot.
- E. Contribute to the comfort, convenience, or necessity of users of the principal use.

**5.120 ACCESSORY STRUCTURES:**

- A. No accessory structure shall be permitted without a primary/principal use or structure first being placed on the property.
- B. The accessory building shall be smaller in square footage and shorter in height than the principal building located on the same lot.
- C. No accessory structures shall be erected in any required front yard.
- D. Accessory structures such as detached garages and storage buildings and swimming pools may be located, at any point, a minimum of five (5) feet behind the front building line(s) of the principal structure, and a minimum of four (4) feet from all side and rear property lines except in areas where utility and/or drainage easements are located.
- E. Accessory structures in Industrial Zoning Districts may be located in front of a principal structure but shall not be permitted in required front or side yards.
- F. No accessory structures are permitted in any type of easement.
- G. If an accessory structure is connected to the principal structure the accessory structure must satisfy the required yard lines of the zone district.

**5.130 ADMINISTRATIVE APPROVALS:**

The following project types may be approved administratively by the Building Inspector or their designee. Should the Building Inspector have any questions about the appropriateness of issuing an administrative approval, they shall place the item on the Planning Commission agenda for review and consideration by the Planning Commission.

A. Administrative Approval of Site Plans:

1. Eligibility: The Building Inspector may administratively approve site plans for new buildings and structure or additions to existing buildings in multi-family, industrial and commercial zone districts, provided the following apply:
  - a) The square footage of the building, structure or addition is less than 2,000 square feet.
  - b) The site plan is continuing or not requesting a land use that requires an approval by the Board of Zoning Appeals.
  - c) Changes of use for an existing building or site that does not require building additions and/or site improvements as required within this zoning ordinance.
2. The Building Inspector reserves the right to route projects to the Planning Commission if they deem the scope of the project requires full review and consideration by the Planning Commission.
3. Only one (1) administrative site plan shall be considered for a lot within a 12-month period.

**5.140 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 no 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.

## ARTICLE VI

### ZONING DISTRICTS

#### SECTION

- 6.010 Classification of Districts
- 6.020 Zoning Map
- 6.030 Zoning District Boundaries
- 6.040 Zoning of Annexed Territory
- 6.050 Specific District Regulations
- 6.051 Residential Districts
- 6.052 Agriculture/Residential
- 6.053 Low-Density Residential
- 6.054 Medium- Density Residential
- 6.055 High-Density Residential
- 6.060 Commercial Districts
- 6.061 Central Business District
- 6.062 Highway Service District
- 6.063 Restricted Office, Medical and Commercial District
- 6.070 Mixed Use
- 6.080 Industrial Districts
- 6.081 General Industrial
- 6.082 Heavy Industrial
- 6.090 Floodplain District – Floodplain Management Regulations
- 6.100 Historic District

#### **6.010 CLASSIFICATION OF DISTRICTS**

For the purpose of implementing the purposes and provisions of this Ordinance, the following zoning districts, as established in Section 3.010 of this Ordinance, are utilized.

<b>Zoning District</b>	<b>District Abbreviation</b>
Agricultural/Residential	AG
Low Density Residential	R-1
Medium Density	R-2
High Density	R-3
Central Business District	C-1
Highway Service District	C-2
Restricted Office, Medical and Commercial	C-3
Mixed Use	MU
General Industrial	I-1
Heavy Industrial	I-2
Historic District	H-1

#### **6.020 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.

#### **6.030 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.

#### **6.040 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 III, Section 3.030.

#### **6.050 SPECIFIC DISTRICT REGULATIONS**

The following regulations shall apply in the ten (10) zoning districts established in Section 3.010, of this Ordinance.

##### **6.051 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.

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## **6.052 AG, Agricultural/Residential District**

### **A. District Description**

This district is designed to provide suitable areas for the growing of crops, animal husbandry, dairying, forestry and other similar activities which generally occur and characterize rural rather than urban areas. These districts are designed, furthermore, to provide for very low-density residential development generally on unsubdivided tracts of land whereon public sanitary service is least practical. In addition, these districts may include areas and lands not suited by reason of soil, geologic, topographic, or other limitations for development.

### **B. Uses Permitted**

In the AG, Agricultural/Residential District, the following uses and their accessory uses are permitted:

1. Single-Family Detached Dwelling
2. Manufactured Residential Dwelling
3. Crops and Animal Raising

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

In the AG, Agricultural/Residential District the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article XI, Section 11.090.

#### **Community Facilities Activities:**

1. Community Assembly
2. Community Education
3. Essential Services
4. Place of Worship
5. Intermediate Impact [Except Crematoriums and Colleges, Junior Colleges, and Universities]

### **D. Uses Prohibited**

Any use(s) or structure(s) not of a nature specifically permitted herein by right, by accessory use or by special exception.

### **E. Permitted Accessory Structures and Uses**

1. Buildings and Structures that are “incidental to the agricultural enterprise” as set forth in Tennessee Code Annotated (T.C.A. 13-7-114), which includes

barns, sheds, silos, and including residences for farms workers.

2. Customary incidental home occupation as regulated in Article X, Section 10.040.

F. Bulk Regulations

All uses permitted in the AG, Agricultural/Residential District shall comply with the following requirements, except as provided in Article VII.

1. Minimum Required Lot Area:

a. With Public Sewer

- i. 1.5 acres

b. Without Public Sewer

- i. 2 acres

2. Minimum Lot Width at Building Setback Line:

- a. 150 feet

3. Yard Regulations:

a. Front Yard: 75 feet

b. Side Yard: 30 feet

c. Rear Yard: 40 feet

- d. Yard distances from roadways scheduled for widening shall meet the setback from the projected future right-of-way line as identified in the Comprehensive Plan.

4. Maximum Lot Coverage: The maximum lot coverage for all structures, including accessory structures, shall not exceed fifteen (15) percent of the total lot area.

5. Maximum Permitted Density: One (1) principal structure per lot.

6. Maximum Height Requirement:

- a. No Principal Building shall exceed three (3) stories in height, except as provided in Article V, Section 5.050.

- b. No Accessory Structures shall exceed two (2) stories in height.

7. Minimum Parking Requirements:

- a. All parking regulations are found in Article VIII.

8. Bulk Regulation Exceptions

- a. The bulk regulations for the AG zone district apply to principal buildings or accessory structures located on any lot or portion of a lot including all new development, enlargements, extensions, or conversions; provided, however, that all barns, sheds, silos, or other buildings used exclusively for agricultural purposes shall be exempt from all AG bulk regulations except yard line requirements.

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## **6.053 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-family detached dwellings and permitted accessory structures. 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 accessory uses are permitted:

1. Single-Family Detached Dwelling
2. Manufactured Residential Dwelling
3. Crops and Animal Raising

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

In the R-1, Low-Density Residential District the following uses permitted through approval of a special exceptions after review and approval in accordance with Article XI, Section 11.090.

1. Place of Worship
2. Community Education
3. Essential Services
4. Intermediate Impact Community Facility [Except Crematoriums]

### **D. Uses Prohibited**

Any use(s) or structure(s) not of a nature specifically permitted herein by right, by accessory use or by special exception.



E. Permitted Accessory Structures and Uses

1. Customary incidental home occupation as regulated in Article X, Section 10.040.

F. Bulk Regulations

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

1. Minimum Required Lot Area:

a. With Public Sewer

- i. Single-Family Detached Residential - 10,000 square feet
- ii. All Other Uses – 20,000 square feet

b. Without Public Sewer

- i. Single-Family Detached Residential - 20,000 square feet
- ii. All Other Uses – 40,000 square feet

2. Minimum Lot Width at Building Setback Line:

a. With Public Sewer

- i. Single-Family Detached Residential – 80 Feet
- ii. All Other Uses – 200 feet

b. Without Public Sewer

- i. Single-Family Detached Residential – 100 Feet
- ii. All Other Uses – 200 feet

3. Yard Regulations: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below, according to their classification on the latest Major Thoroughfare Plan:

a. Front Yard:

- i. Arterial Streets: 50 feet
- ii. Collector Streets: 40 feet
- iii. Minor/Local Street: 30 feet

b. Side Yard: 30 feet

- c. Rear Yard: 15 feet
  - d. Yard distances from roadways scheduled for widening shall meet the setback from the projected future right-of-way line as identified in the Comprehensive Plan.
- 4. Maximum Lot Coverage: The maximum lot coverage for all structures, including accessory structures, shall not exceed thirty-five (35) percent of the total lot area.
  - 5. Maximum Permitted Density: One (1) principal dwelling per lot.
  - 6. Maximum Height Requirement:
    - a. No Principal Building shall exceed three (3) stories in height, except as provided in Article V, Section 5.050.
    - b. No Accessory Structures shall exceed two (2) stories in height.
  - 7. Minimum Parking Requirements:
    - a. All parking regulations are found in Article VIII.

## **6.054 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, manufactured residential dwelling 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 to 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 accessory uses are permitted:

1. Single-Family Detached Dwelling
2. Attached Residential Dwelling
3. Manufactured Residential Dwelling

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

In the R-2, Medium-Density Residential District the following uses permitted through approval of a special exceptions after review and approval in accordance with Article XI, Section 11.090.

1. Multi-Family Residential Dwellings as regulated in Article X, Section 10.080.
2. Mobile Home Park as regulated in Article X, Section 10.070.
3. Place of Worship
4. Community Education
5. Essential Services
6. Intermediate Impact Community Facilities [Cemeteries Only]

D. Uses Prohibited

Any use(s) or structure(s) not of a nature specifically permitted herein by right, by accessory use or by special exception.

E. Permitted Accessory Structures and Uses

1. Customary incidental home occupation as regulated in Article X, Section 10.040.

F. Bulk Regulations

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

1. Minimum Required Lot Area:

a. With Public Sewer

- i. Single-Family Detached Residential - 9,000 square feet
- ii. Duplex Dwellings – 18,000 square feet
- iii. Attached Residential Dwelling – 11,000 square feet (5,500 square feet of lot area per unit)
- iv. Manufactured Residential Dwelling – 9,000 square feet
- v. All Other Uses – 20,000 square feet

b. Without Public Sewer

- i. Single-Family Detached Residential - 18,000 square feet
- ii. Duplex Dwellings – 36,000 square feet
- iii. Attached Residential Dwelling – 22,000 square feet (11,000 square feet of lot area per unit)
- iv. Manufactured Residential Dwelling – 18,000 square feet
- v. All Other Uses – 40,000 square feet

2. Minimum Lot Width at Building Setback Line:

a. With Public Sewer

- i. Single-Family Detached Residential – 75 Feet
- ii. Duplex Dwelling – 75 feet
- iii. Attached Residential Dwelling – 75 feet

- iv. Multi-Family Residential Dwelling – 100 feet
    - v. All Other Uses – 100 feet
  - b. Without Public Sewer
    - i. Single-Family Detached Residential – 100 Feet
    - ii. Duplex Dwelling – 100 feet
    - iii. Attached Residential Dwelling – 75 feet
    - iv. Multi-Family Residential Dwelling – 100 feet
    - v. All Other Uses – 200 feet
- 3. Yard Regulations: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below, according to their classification on the latest Major Thoroughfare Plan:
  - a. Front Yard:
    - i. Arterial Streets: 50 feet
    - ii. Collector Streets: 40 feet
    - iii. Minor/Local Street: 30 feet
  - b. Side Yard: 10 feet
  - c. Rear Yard: 20 feet
  - d. Yard distances from roadways scheduled for widening shall meet the setback from the projected future right-of-way line as identified in the Comprehensive Plan.
- 4. Maximum Lot Coverage: The maximum lot coverage for all structures, including accessory structures, shall not exceed forty (40) percent of the total lot area.
- 5. Maximum Permitted Density:
  - a. Single-Family Detached, Duplex Dwelling and Manufactured Residential Dwelling: As determined by minimum lot size.
  - b. Attached Dwelling: As determined in Section 6.054(F).
  - c. Multi-Family Dwelling: As determined in Section 10.080.

6. Maximum Height Requirement:

- a. No Principal Building shall exceed three (3) stories in height, except as provided in Article V, Section 5.050.
- b. No Accessory Structures shall exceed two (2) stories in height.

7. Minimum Parking Requirements:

- a. All parking regulations are found in Article VIII.

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## **6.055 R-3, High-Density Residential District**

### **A. District Description**

The R-3 High-Density Residential District is intended to provide locations for higher density, multiple-family dwelling housing developments with a maximum density of twelve (12) dwelling units per gross acre of site area. It is not the intent of this Ordinance, however, to restrict in number the dwelling units thereon. Generally, this district will be characterized by residential structures each containing a multiple number of dwelling units. The R-3 District applies to areas in which a mix of single-family and multiple-family housing is appropriate to create a unified urban neighborhood; transitional areas between lower and higher intensity uses; developing area of multiple-family housing where sufficient urban facilities are available or where such facilities will be available prior to development. This district is intended also to permit community facilities and public utility installations which are necessary to service and do service specifically the residents of this district, or which are benefited by and compatible with a residential environment.

### **B. Uses Permitted**

In the R-3, High-Density Residential District, the following uses and accessory uses are permitted:

1. Attached Residential Dwelling
2. Duplex Dwelling
3. Multi-Family Residential Dwelling [Supplemental Regulations in Section 10.080.

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

In the R-3, High-Density Residential District the following uses permitted through approval of a special exceptions after review and approval in accordance with Article XI Section 11.090.

1. Places of Worship
2. Community Education
3. Essential Services

### **D. Uses Prohibited**

Any use(s) or structure(s) not of a nature specifically permitted herein by right, by accessory use or by special exception.

E. Permitted Accessory Structures and Uses

1. Customary incidental home occupation as regulated in Article X, Section 10.040.

F. Bulk Regulations

All uses permitted in the R-3, High-Density Residential District shall comply with the following requirements, except as provided in Article VII.

1. Minimum Required Lot Area:

a. With Public Sewer

- i. Attached Residential Dwelling and Duplex Dwelling – 10,000 square feet (5,000 square feet of lot area per unit)
- ii. Multi-Family Residential Dwelling – 36,000 square feet (3,000 square feet per unit)

b. Without Public Sewer

- i. Attached Residential Dwelling and Duplex Dwelling – 20,000 square feet (11,000 square feet of lot area per unit)
- ii. Multi-Family Residential Dwelling – 36,000 square feet (3,000 square feet per unit)

2. Minimum Lot Width at Building Setback Line:

a. With Public Sewer

- i. Attached Residential Dwelling and Duplex Dwelling – 75 feet
- ii. Multi-Family Residential Dwelling – 75 feet

b. Without Public Sewer

- i. Attached Residential Dwelling and Duplex Dwelling – 75 feet
- ii. Multi-Family Residential Dwelling – 75 feet

3. Minimum Yard Requirements: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below, according to their classification on the latest Major Thoroughfare Plan:

a. Front Yard:

- i. Arterial Streets: 50 feet
- ii. Collector Streets: 40 feet



- iii. Minor/Local Street: 30 feet
  - b. Side Yard: 10 feet
  - c. Rear Yard: 20 feet
  - d. Yard distances from roadways scheduled for widening shall meet the setback from the projected future right-of-way line as identified in the Comprehensive Plan.
4. Maximum Lot Coverage: The maximum lot coverage for all structures, including accessory structures, shall not exceed forty (40) percent of the total lot area.
5. Maximum Permitted Density:
- a. Attached Dwelling: As determined in this section.
  - b. Multi-Family Dwelling: As determined in Section 10.080.
6. Maximum Height Requirement:
- a. No Principal Building shall exceed two (2) stories in height, except as provided in Article V, Section 5.050.
  - b. No Accessory Structures shall exceed two (2) stories in height and shall be shorter than the principal building on the same lot.
7. Minimum Parking Requirements:
- a. All parking regulations are found in Article VIII.

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

The Commercial 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:

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 all types of commercial and miscellaneous service activities.
6. 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.
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 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.

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

### **A. District Description**

This district is designed to provide for a wide range of retail, office, amusement, and service uses 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. Bed and Breakfast
2. General Retail Sales
3. Wholesale Sales
4. General Professional Office
5. Personal Service
6. Place of Worship
7. Financial, Insurance, and Real Estate Services
8. Food Services
9. Community Assembly [Public Community Centers and Private and Non-Profit Lodges and Clubs]
10. Essential Services [Public Open Spaces, Nature Preserves]
11. Cultural Community Facilities [Public, Private, and Non-Profit Museums, Art Galleries, and Libraries]
12. Laundry Services/Dry Cleaning
13. Gasoline Service Station [Subject to Supplemental Regulation in Article X Section 10.020]
14. Medical Office and Services
15. Funeral Services
16. Newspaper and Print Shops
17. Utility and Vehicular Community Facilities [All Except Substations]

and Mail Processing Center]

18. Upper-Story Residential

C. Uses Permitted as Special Exception

In the C-1, Central Business District, the following use(s) and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article XI, Section 11.020.

1. Transient Habitation

D. Upper Story Residential Dwelling: Special Conditions

1. All upper story residential development proposals shall require a certified statement demonstrating a firm agreement for parking reserved exclusively for the use of the upper story residential development.
2. All upper story residential development proposals shall be in compliance with all Building, Utility, and Housing Codes within the Westmoreland Municipal Code.

E. Uses Prohibited

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

F. Bulk Regulations

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

1. Minimum Required Lot Area:

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

2. Minimum Lot Width at Building Setback Line:

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

3. Minimum Yard Requirements

Within the C-1 zone district, no yards, as such are required. However, if an open area that extends along a side lot line is provided, it shall be at least ten (10) feet wide, and it shall be unobstructed with the only exception being permitted encroachments as stated in Section 10.010(A).

4. Maximum Lot Coverage: The maximum lot coverage for all structures, including accessory structures, is 100 percent.

5. Maximum Height Requirement

- a. No Principal Building shall exceed three (3) stories or 40 feet in height, except as provided in Article V, Section 5.050.

6. Minimum Parking Requirements

- a. All parking regulations are found in Article VIII.

G. Other Regulations

1. Exterior Storage of goods and materials of any kind is prohibited. The placement of waste disposal facilities shall be in the rear of buildings.

## **6.062 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. Animal Care
2. Automotive Repair and Cleaning
3. Automotive Servicing and Cleaning Commercial
4. Construction Materials Sales and Services
5. Gasoline Service Station [Subject to Supplemental Regulation in Article X, Section 10.020]
6. Food Services
7. Landry Services/Dry Cleaning
8. General Retail Sales
9. Transient Habitation
10. Wholesale Sales
11. Place of Worship
12. General Professional Office
13. Personal Service
14. Financial, Insurance, and Real Estate Services
15. Funeral Services

16. Community Assembly
17. Essential Services
18. Health Care Facilities
19. Intermediate Impact Community Facility [Except Crematoriums]
20. Limited Child and Adult Care Community Facilities
21. Medical Office and Services
22. Nursing Home and Assisted Living Facilities
23. Retail Business Supply
24. Self-Storage/Mini-Warehouse
25. Utility and Vehicular Community Facilities [Excluding Mail Processing Center]
26. Plant Nursery

C. Uses Permitted as Special Exception

In the C-2, Central Business District, the following use(s) and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article XI, Section 11.090.

1. Travel Trailer Parks and Overnight Campgrounds

D. Uses Prohibited

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

E. Permitted Accessory Structures and Uses

F. Bulk Regulations

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

1. Minimum Required Lot Area:
  - a. With Public Sewer
    - i. 10,000 square feet
  - b. Without Public Sewer
    - i. 20,000 square feet

2. Minimum Lot Width at Building Setback Line:

- a. The minimum lot width in the C-2 zone district is 100 feet.

3. Minimum Yard Requirements: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below, according to their classification on the latest Major Thoroughfare Plan:

- a. Front Yard: 40 feet  
b. Side Yard: 10 feet  
c. Rear Yard: 20 feet

Yard distances from roadways scheduled for widening shall meet the setback from the projected future right-of-way line as identified in the Comprehensive Plan.

4. Maximum Lot Coverage: The maximum lot coverage for all structures, including accessory structures, is forty (40) percent.

5. Maximum Height Requirement

- a. No Principal Building shall exceed 40 feet in height, except as provided in Article V, Section 5.050.

6. Minimum Parking Requirements

- a. All parking regulations are found in Article VIII.

G. Other Regulations

1. Exterior Storage of goods and materials of any kind is prohibited. The placement of waste disposal facilities shall be in the rear of buildings and screened as stated in the next section.

H. Site Design: Landscaping and Buffering

1. Site Landscaping: Each site development in the C-2 zone 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.



2. Bufferyard: 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.
3. Screening: 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.

### **6.063 C-3, Restricted Office, Medical and Commercial District**

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 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 arterial roadways in places that are easily accessible from residential areas.

#### **A. Uses Permitted**

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

1. Medical Offices and Services
2. General Professional Office
3. Personal Services
4. Gasoline Service Station [Subject to Supplemental Regulation in Article X Section 10.020]
5. Landry Services/Dry Cleaning
6. Food Services
7. Financial, Insurance, and Real Estate Services

#### **B. Uses Prohibited**

1. All uses not specifically permitted.

#### **C. Bulk Regulations**

All uses permitted in the C-3, Restricted Office, Medical and Commercial District shall comply with the following requirements except as provided in Article VII.

##### **1. Minimum Required Lot Area:**

- a. No minimum lot size shall be required in the C-3 Districts; however, lots shall be of such size that the structure(s) proposed will have architectural unity and flexibility in arrangements and that all bulk regulations listed in this ordinance are satisfied.

##### **2. Minimum Lot Width at Building Setback Line**

- a. 100 feet

##### **3. Minimum Yard Requirements:**

- a. Front Setback: 35 feet
- b. Side: 15 feet

- c. Rear: 20 feet - Except where the rear lot line abuts property zoned residential or contains a residential use, in which case the setback shall be 30 feet.

4. Maximum Lot Coverage

- a. The maximum lot coverage for all structures, including accessory structures, is forty (40) percent.

5. Maximum Height Requirement

- a. No Principal Building shall exceed 35 feet in height, except as provided in Article V, Section 5.050.

6. Minimum Parking Requirements

- a. All parking regulations are found in Article VIII.

7. Site Design: Landscaping and Buffering

- a. Site Landscaping: Each site development in the C-3 zone 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.
- b. Bufferyard: 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.
- b. Screening: 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.

## **6.070 MU, Mixed Use District**

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 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 arterial roadways in places that are easily accessible from residential areas.

### **A. Uses Permitted**

In the MU, Mixed Use District, the following uses are permitted.

#### **Residential Activities:**

1. Attached Residential Dwelling
2. Multi-Family Residential Dwelling
3. Single-Family Detached Dwelling

#### **Community Facility Activities:**

4. Community Education
5. Essential Services
6. Limited Child and Adult Care Community Facilities
7. Place of Worship
8. Nursing Home and Assisted Living Facilities
9. Utility and Vehicular

#### **Commercial Activities:**

1. Financial, Insurance, and Real Estate Services
2. Food Services
3. General Retail Sales
4. Medical Offices and Services
5. Transient Habitation
6. Funeral Services
7. General Professional Office
8. Personal Services

#### **Uses Prohibited**

1. All uses not specifically permitted.

Conditional Uses:

1. Convenience Sales and Service [Subject to Supplemental Regulations in Article X Section 10.020.]

B. Residential Development Bulk Regulations

All permitted residential uses in the MU, Mixed Use District shall satisfy the following requirements except as provided in Article VII.

1. Minimum Required Lot Area:

a. Minimum Site Size for Entire Development

- i. The minimum size for the entire mixed-use development is five (5) acres.

b. With Public Sewer

- i. Single-Family Detached Residential - 9,000 square feet
- ii. Attached Residential Dwelling – 10,000 square feet (5,000 square feet of lot area per unit)
- iii. Multi-Family Dwelling – 36,000 square feet (3,000 square feet of lot area per unit)

c. Without Public Sewer

- i. Single-Family Detached Residential - 18,000 square feet
- ii. Attached Residential Dwelling – 20,000 square feet (10,000 square feet of lot area per unit)
- iii. Multi-Family Dwelling – 36,000 square feet (3,000 square feet of lot area per unit)

2. Yard Regulations: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below, according to their classification on the latest Major Thoroughfare Plan:

a. Front Yard:

- i. Arterial Streets: 50 feet
- ii. Collector Streets: 40 feet
- iii. Minor/Local Street: 30 feet

b. Side Yard: 10 feet

c. Rear Yard: 20 feet

- d. Yard distances from roadways scheduled for widening shall meet the setback from the projected future right-of-way line as identified in the Comprehensive Plan.

3. Minimum Lot Width at Building Setback Line

a. With Public Sewer

- i. Single-Family Detached Residential – 75 Feet
- ii. Attached Residential Dwelling – 75 feet
- iii. Multi-Family Residential Dwelling – 100 feet

b. Without Public Sewer

- i. Single-Family Detached Residential – 100 Feet
- ii. Attached Residential Dwelling – 75 feet
- iii. Multi-Family Residential Dwelling – 100 feet

4. Maximum Lot Coverage

- a. The maximum lot coverage for all structures, including accessory structures, is forty (40) percent of the total lot area.

5. Maximum Permitted Density:

- a. Single-Family Detached, Duplex Dwelling and Manufactured Residential Dwelling: One (1) principal dwelling unit per lot.
- b. Attached Dwelling: As determined by the minimum lot size.
- c. Multi-Family Dwelling: As determined in Article X, Section 10.080.

6. Maximum Height Requirement

- a. No Principal Building shall exceed three (3) stories in height, except as provided in Article V, Section 5.050.
- b. No Accessory Structures shall exceed two (2) stories in height.

7. Minimum Parking Requirements

- a. All parking regulations are found in Article VIII.

### C. Non-Residential Development Bulk Regulations

All non-residential land uses in the MU; Mixed Use District shall comply with the following requirements except as provided in Article VII.

#### 1. Minimum Required Lot Area:

##### a. Minimum Site Size for Entire Development

- i. The minimum size for the entire mixed-use development is five (5) acres.

##### b. With Public Sewer

- i. 10,000 square feet

##### c. Without Public Sewer

- i. 20,000 square feet

#### 2. Minimum Lot Width at Building Setback Line:

- a. The minimum lot width in the MU zone district is 100 feet.

#### 3. Minimum Yard Requirements: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below, according to their classification on the latest Major Thoroughfare Plan:

- a. Front Yard: 40 feet

- b. Side Yard: 10 feet

- c. Rear Yard: 20 feet

Yard distances from roadways scheduled for widening shall meet the setback from the projected future right-of-way line as identified in the Comprehensive Plan.

#### 4. Maximum Lot Coverage: The maximum lot coverage for all structures, including accessory structures, is fifty (50) percent.

#### 5. Maximum Height Requirement:

- a. No Principal Building shall exceed 35 feet in height, except as provided in Article V, Section 5.050.

#### 6. Minimum Parking Requirements:

- a. All parking regulations are found in Article VIII.

#### 7. Site Design: Landscaping and Buffering

- a. Site Landscaping: Each site development in the MU zone 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.

- b. Bufferyard: 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.
- b. Screening: 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.



#### **6.080 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:

- A. 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 industrial activities, with due allowance for the need for choice of suitable sites.
- B. To protect distribution, 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 industrial activities are available by prohibiting the use of such space for residential purposes.
- C. 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.
- D. To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of industrial 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.
- E. 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.
- F. 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 suitability for particular uses, and to conserve the value of land and buildings, and to protect the Town's tax revenues.

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

### A. District Description

This district is designed for a wide range of industrial and related uses which are 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 industrial uses are permitted.

### B. Uses Permitted:

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

1. Intermediate Impact Community Facilities [Crematorium Only]
2. Extensive Impact Community Facilities [Transmission Stations Only]
3. Intermediate Impact Community Facilities
4. Utility and Vehicular Community Facilities
5. Automotive Parking
6. Construction Materials Sales and Services
7. Scrap Operations
8. Transport and Warehousing
9. Self-Storage/Mini-Warehouse
10. Wholesale Sales
11. Adult Entertainment

### Limited Manufacturing/Industrial

12. Food Manufacturing
13. Beverage and Tobacco Product Manufacturing
14. Textile Mills and Textile Products Manufacturing
15. Clothing/Apparel Manufacturing
16. Leather Goods Manufacturing
17. Wood Product Manufacturing [Except Sawmills]
18. Chemical Manufacturing
19. Non-Metallic Product Manufacturing
20. Computer and Electronic Product Manufacturing

21. Machinery Manufacturing
22. Truck Terminal Facility
23. Automotive and/or Truck Parking Lot: Short and Long Term
24. Printing, Publishing and Related industries.
25. Wholesale Trade

Intermediate Manufacturing/Industrial

26. Animal Food Manufacturing
27. Footwear Manufacturing
28. Fabricated Metal Product Manufacturing
29. Furniture and Related Product Manufacturing

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 XI, Section 11.090.

1. Convenience Sales and Service.
2. Automobile Wrecking, Junk, and Salvage Yards, subject to provisions of Article X, Section 10.050.
3. Adult Oriented Establishments and its accessory uses may be permitted if all supplemental regulations as found in Article X, Section 10.060.

D. Uses Prohibited

Uses not specifically permitted or uses not permitted upon approval as a special exception or uses that cannot satisfy the supplemental regulations found in Article X.

E. Permitted Accessory Structures and Uses

1. Office Space related to the principal land use within the same building.
2. Restaurants and Cafeterias for consumption of employees of principal land use on the same property and/or within the same building. The restaurant and/or cafeteria shall not be open to the public.

F. Bulk Regulations

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

1. Minimum Required Lot Area

- a. 20,000 square feet

2. Minimum Lot Width and Building Setback Line:

- b. The minimum lot width in the I-1 zone district is 100 feet.

3. Minimum Yard Requirements: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below:

- a. Front Yard: 45 ft.
- b. Side Yard: 20 ft.
- c. Rear Yard: 20 ft.
- d. No yard is required for any part of a lot that abuts a railroad right-of-way.

4. Maximum Lot Coverage:

- a. 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.

5. Maximum Height Requirements:

- a. No building shall exceed six (60) feet in height, except as provided in Article V, Section 5.050.

6. Minimum Parking Requirements:

- a. All parking regulations are found in Article VIII.

G. Other Regulations:

1. **Enclosure Requirements:** All uses shall be conducted within completely enclosed buildings except for parking and loading, exterior storage, and other accessory uses listed herein which by their nature must necessarily exist outside a building.

2. **Exterior Storage:** Exterior storage may be permitted in the side and rear of the principal building only, provided the location, extent, and screening of storage is approved as a part of the site plan and further provided that exterior storage shall be screened from public view by suitable fence, wall, or hedge not exceeding fifteen (15) feet in height with the stored materials to be kept at least two (2) feet below the top of such screen.

3. **Provisions Applying along District Boundaries:** In any I-1 District along such portion of the boundary which coincides with a lot line of a lot in a residential district, the buildings and structures shall be set back at least fifty (50) feet from such lot line.
4. **Surfacing of Storage Areas:** All storage areas shall be surfaced to provide a durable and dust free surface. All areas shall be graded and drained so as to dispose of all surface water accumulated within the area.

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## **6.082 I-2, Heavy Industrial District**

### **A. District Description**

This district is intended to provide space for industrial uses and activities which by volume of raw materials or freight, scale of operations, type of structures required, or other similar characteristics require locations relatively well segregated from non-industrial uses. 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 industrial uses are permitted.

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

Principal Permitted Uses - Within the Heavy Industrial Districts as shown on the Westmoreland Zoning Map, the following activities as described in Article III are permitted:

In the I-2, Heavy Industrial District, the following uses and their accessory uses are permitted:

#### **Community Facilities Activities:**

1. Essential Services [Utility Facilities and Government Buildings]
2. Extensive Impact Community Facilities
3. Intermediate Impact Community Facilities [Including Crematorium]
4. Utility and Vehicular Community Facilities

#### **Commercial Activities:**

1. Automotive Parking
2. Construction Material Sales and Services
3. Scrap Operations
4. Transport and Warehousing
5. Adult Entertainment

#### **Limited Manufacturing/Industrial:**

1. All uses permitted in the I-1 Zone District.

#### **Intermediate Manufacturing/Industrial:**

1. All uses permit in the I-1 Zone District.

2. Cotton Ginning
3. Animal Food Manufacturing
4. Fats and Oil Refining and Blending
5. Basic Chemical Manufacturing
6. Non-Metallic Product Manufacturing
7. Fabricated Metal Product Manufacturing
8. Machinery Manufacturing
9. Electrical Equipment and Appliance Manufacturing

Extensive Manufacturing/Industrial:

1. Sawmills and Wood Preservation
2. Paper Manufacturing [Including Pulp, Paper, and Paperboard Mills]
3. Petroleum and Coal Product Manufacturing
4. Chemical Manufacturing (Including Resin, Rubber, Agriculture Chemicals, Explosives)
5. Rubber Product Manufacturing
6. Glass and Glass Product Manufacturing
7. Cement and Concrete Products Manufacturing
8. Transportation Equipment Manufacturing and Re-Fabrication
9. Scrap Metal Processing – Automotive Wrecking and Salvage
10. Solid Waste Disposal [Subject to the approval of the Sumner County Health Department, the Tennessee Department of Public Health]
11. Mining Activities, Quarrying, and Related Services
12. Airport
13. Primary Metal Manufacturing

C. Uses Permitted as Special Exceptions

In the I-2, Heavy Industrial District, the following uses and their accessory uses may be permitted as special exceptions after review and approval in accordance with Article XI, Section 11.090.

1. Convenience Sales and Service. Subject to Supplemental Regulations found in Article XI, Section 11.105(B).
2. Automobile Wrecking, Junk, and Salvage Yards, subject to provisions of Article X, Section 10.050.
- ~~3.~~ Adult Oriented Establishments and its accessory uses may be permitted if all supplemental regulations as found in Section 10.060 of this ordinance are satisfied.

D. Uses Prohibited

Uses not specifically permitted or uses not permitted upon approval as a special exception or uses that cannot satisfy the supplemental regulations found in Article X.

E. Permitted Accessory Structures and Uses

1. Office Space related to the principal land use within the same building.
2. Restaurants and Cafeterias for consumption of employees of principal land use on the same property and/or within the same building. The restaurant and/or cafeteria shall not be open to the public.

F. Bulk Regulations

All uses permitted in the I-2, Heavy Industrial District shall comply with the following requirements, except as provided in Article VII.

1. Minimum Required Lot Area
  - a. Individual building sites shall be of such size that the structures involved will have architectural unity and flexibility in arrangements and that all bulk regulations listed in this ordinance are satisfied.
2. Minimum Lot Width and Building Setback Line:
  - b. The minimum lot width in the I-2 zone district is 100 feet.
3. Minimum Yard Requirements: All principal and accessory structures shall be set back from the right-of-way lines of adjacent streets the minimum distance shown below:
  - a. Front Yard: 45 ft.



- b. Side Yard: 20 ft.
  - c. Rear Yard: 20 ft.
  - d. No yard is required for any part of a lot that abuts a railroad right-of-way.
- 4. Minimum Yard Requirements: Adjacent to Residential Land Uses

If a property zoned I-2 is located adjacent to a property zoned residentially and/or contains a residential land use the following Side and Rear Yard Regulations supersede the regulation stated above in 5.50.1(F)(4).

  - a. Side Yard: 50 feet
  - b. Rear Yard: 50 feet
- 5. Maximum Lot Coverage:
  - a. 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.
- 6. Maximum Height Requirements:
  - a. No building shall exceed eight (80) feet in height, except as provided in Article V, Section 5.050.
- 7. Minimum Parking Requirements:
  - a. All parking regulations are found in Article VIII.

G. Other Regulations:

- 1. **Enclosure Requirements:** All uses shall be conducted within completely enclosed buildings except for parking and loading, exterior storage, and other accessory uses listed herein which by their nature must necessarily exist outside a building.
- 2. **Exterior Storage:** Exterior storage may be permitted in the side and rear of the principal building only, provided the location, extent, and screening of storage is approved as a part of the site plan and further provided that exterior storage shall be screened from public view by suitable fence, wall, or hedge not exceeding fifteen (15) feet in height with the stored materials to be kept at least two (2) feet below the top of such screen.
- 3. **Provisions Applying along District Boundaries:** In any I-1 District along such portion of the boundary which coincides with a lot line of a lot in a residential district, the buildings and structures shall be set back at least fifty (50) feet from such lot line.
- 4. **Surfacing of Storage Areas:** All storage areas shall be surfaced to

provide a durable and dust free surface. All areas shall be graded and drained so as to dispose of all surface water accumulated within the area.

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**6.090 Floodplain District – Floodplain Management Regulations**

(Added by Ordinance 374, June 19, 2006)

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

A. 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:

B. Findings of Fact

1. 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).
2. 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.
3. 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.

C. 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:

1. Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
2. Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
3. (Control the alteration of natural floodplains, stream channels, and natural protective barriers involved in the accommodation flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
5. 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:

1. To protect human life, health and property;
2. To minimize expenditure of public funds for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. 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;
6. 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;
7. To ensure that potential homebuyers are notified that property is in a floodable area; and
8. To maintain eligibility for participation in the National Flood Insurance Program.

**6.092 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 Flood Hazard Boundary Map (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 equaled 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"**, A structure with two (2) or more outside rigid walls and a fully secured roof, that is affixed to a permanent site.

**"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"** A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid (perimeter) foundations walls are not an acceptable means of elevating buildings in V and VE zones.

**"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"** The process of the gradual wearing away of land masses. Erosion can occur along coasts and rivers and streams. Although flood-related erosion is covered by flood insurance, this peril is not covered per se under the National Flood Insurance Program (NFIP).

**"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"** structures for which the "start of construction" commenced before the effective date of the Flood Insurance Rate Map (FIRM) or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**"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"** A general and temporary condition of partial or complete inundation of 2 or more acres of normally dry land area or of 2 or more properties (at least 1 of which is the policyholder's property) from:

1. Overflow of inland or tidal waters; or
2. Unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.; or
4. Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.

**"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"** An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.

Freeboard is 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"** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Building"** 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 in states without approved programs.

**"Historic Properties"** Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register of Historic Places, including artifacts, records and material remains which are related to such district, site, building, structure, or object. [(16 USC Section 70(w)(5)].

**"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 (Mobile) 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. Generally, manufactured homes must meet the same requirements as stick built or conventional housing. Because they are usually residential buildings, they must be elevated so that the lowest floor is above the Base Flood Elevation (BFE).

Manufactured Homes must be elevated and anchored to a permanent foundation to resist flotation, collapse, or lateral movement.

**"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.

A recreational vehicle placed on a site in a Special Flood Hazard Area (SFHA) must meet the elevation and anchoring requirements for manufactured homes, unless it:

1. Is on the site for fewer than 180 consecutive days, or
2. Is fully licensed and ready for highway 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 Flood 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 Military, Tennessee Emergency Management Agency 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"** A walled and roofed building, other than a gas or liquid storage tank, principally above ground and affixed to a permanent site as well as a manufactured home on a permanent foundation.

**"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.

**"Watercourse"** A watercourse means only the channel and banks of an identifiable watercourse, and not the adjoining floodplain areas.

**"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.

## **6.093 General Provisions**

### **A. Application**

This Ordinance shall apply to all areas within the incorporated area of Westmoreland, Tennessee.

### **B. 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, April 17, 2012, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

### **C. Requirement for Development Permit**

A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

### **D. 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.

### **E. 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.

### **F. 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.

### **G. 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.

### **H. 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 and/or a fine of \$50.00 per day. 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.

## **6.094 Administration**

### **A. Designation of Ordinance Administrator**

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

### **B. Permit Procedures**

Application for a development permit shall be made to the Building Inspector, or their designee, 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:

#### **1. Application Stage**

- a) 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.
- b) 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.
- c) Design certificate from a registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in Subsection 6.094 and 6.095.
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- e) Submission of surety for completion of work in a form approved by the City Attorney and in an amount based on the cost of development as determined by the City Engineer utilizing the current issue of the R.S. Means Site Work Cost Data.

#### **2. Construction Stage**

- a) 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.
- b) 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.

- c) 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.
  - d) 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, or their designee, 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 Military, Tennessee Emergency Management Agency (TEMA) and Tennessee Department of Environment and Conservation (TDEC) prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency (FEMA).
  - 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 (LOMR) 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 6.094(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 6.094(2) and 6.095.

- 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 6.094(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 (FEMA) 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.
- j) 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 Section 6.092, of this Ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Subsection 6.094(2).
- k) 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.

## **6.095 Provisions for Flood Hazard Reduction**

### **A. General Standards**

In all flood prone areas, the following provisions are required:

1. New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;
2. 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;
3. New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;
5. 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;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. 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;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. 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,
10. 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.

B. Specific Standards

These provisions shall apply to ALL Areas of Special Flood Hazard as provided herein:

1. 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 6.094(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 6.092, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Section 6.094(2).

2. Nonresidential Construction. New construction or substantial improvement of any commercial, industrial, or nonresidential building, when Base Flood Elevation (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 5.62, of this article). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Section 6.094(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 Section 6.094(2).

3. 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.
  - a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria.
    - i. 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;
    - ii. The bottom of all openings shall be no higher than one (1) foot above the finish grade; and
    - iii. 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.
  - b) 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
  - c) 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 Section 6.095, of this Ordinance.

4. Standards for Manufactured Homes and Recreational Vehicles

- a) 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.
- b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
  - i. 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,
  - ii. 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.
  - iii. Any manufactured home, which has incurred “substantial damage” as the result of a flood or that has substantially improved, must meet the standards of Section 6.095, of this Ordinance.
  - iv. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - v. All recreational vehicles placed on identified flood hazard sites must either:
    - (1) Be on the site for fewer than one hundred-eighty (180) consecutive days;
    - (2) 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.
    - (3) 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.

5. 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:

- a) All subdivision proposals shall be consistent with the need to minimize flood damage.
  - b) 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.
  - c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
  - d) 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.
6. 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 Section 6.093(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 Section 6.095.
7. 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 Section 6.093, 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 Section 6.095.

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

Located within the Areas of Special Flood Hazard established in Section 6.093, 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 Section 6.093, 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 Subsection 6.095 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 Section 6.095 and “Elevated Buildings”, as defined in Section 6.092.

9. Standards for Areas of Shallow Flooding (AO and AH Zones)

Located within the Areas of Special Flood Hazard established in Section 6.093, 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 Section 6.095 and “Elevated Buildings”, as defined in Section 6.092..
- 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 Section 6.094(3).
- 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.

10. Standards for Areas Protected by Flood Protection System (A-99 Zones)

Located within the areas of special flood hazard established in Section 6.093 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 Section 6.094, and Section 6.095, shall apply.

11. Standards for Unmapped Streams

Located within Westmoreland, Tennessee 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 community.

- 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 6.095.

#### **6.096 Variance Procedures**

The provisions of this section shall apply exclusively to areas of Special Flood Hazard within Westmoreland, Tennessee.

##### **A. Board of Zoning Appeals**

1. The Westmoreland Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Section.
2. Variances may be issued for the repair or rehabilitation of historic buildings (as defined in Section 6.092), 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.
3. 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:
  - a) The danger that materials may be swept onto other property to the injury of others;
  - b) The danger to life and property due to flooding or erosion;
  - c) The susceptibility of the proposed facility and its contents to flood damage;
  - d) The importance of the services provided by the proposed facility to the community;
  - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i) 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;
  - j) 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.
  - k) 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.
  - l) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Conditions for Variances

1. 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.
2. 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.
3. 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.
4. The Building Inspector, or their designee, shall maintain the records of all appeal actions and report the granting of any variances to the Tennessee Emergency Management Agency and the Federal Emergency Management Agency upon request.

## **Section 6.100 H-1, Historic District**

### **A. Intent and Purpose**

It is the intent of this district to preserve the historic sites and structures of the City of Westmoreland. The requirements of the district are designed to protect and preserve historic and/or architectural value; create an aesthetic atmosphere; strengthen the economy; protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided; and promote the education and patriotic heritage of the present and future citizens of the community. In order to achieve the intent of the H-1 Historic District, as shown on the official Zoning Map of Westmoreland, Tennessee, the following regulations shall apply.

### **B. Uses and Structures**

1. Any use permitted by the existing zoning classification is also permitted by the H-1 Historic District.

### **C. Application of the H-1 Historic District**

The H-1 District classification may be superimposed in addition to the existing zoning classification where the following criteria shall be determined to exist by the Historic District Commission.

1. The quality of significance in American History, architecture, archeology, and culture is present in districts, sites, buildings, and structures that possess integrity of location, design, setting, materials, workmanship, feeling and association, and:
2. That are associated with events that have made a significant contribution to the broad patterns of our history; or
  - a) That are associated with the lives of persons significant in our past; or
  - b) That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
    - a. or
  - c) That have yielded, or may be likely to yield, archaeological information.

### **D. Administration**

No building permit for construction, major alteration or rehabilitation, moving, or demolition to be carried on within the H-1 District shall be issued by the Building Inspector until it is submitted to and receives approval in writing by the Historic District Commission.

1. Administration shall be by the office of the Building Inspector and the Historic District Commission and all items regulated within the H-1 District shall be submitted to the Historic District Commission (through the Building Inspector) for its review.
2. Building Permit Required: All alterations, additions, or new construction which, previous to the establishment of this H-1 District, required that application be made for a Building



Permit, and approval obtained before the work on such alterations, additions, or new construction can begin. In addition, it shall be required that application be made in the same manner for any work, including but not limited to, alterations, additions, demolition, removal or new construction which alters or contributes to the exterior appearance of existing structures.

3. Within 90 days of the passage of this Ordinance, the Historic District Commission shall prepare and submit to the Westmoreland Mayor and Aldermen design review guidelines which shall be used by the Historical District Commission in the consideration of any application for certificate of appropriateness applied for under this Ordinance. No application may be considered by the Historic District Commission until such time as said guidelines have received approval of the Mayor and Aldermen.
4. Building Permit Procedures
  - a. Applications for building permits within the H-1 District shall be made at City Hall and all such applications shall be referred directly to the Historic District Commission. The Historic District Commission shall have broad powers to request detailed construction plans and related data pertinent to a thorough review of any application.
  - b. Upon receiving an application for a Building Permit the Historic District Commission shall, within thirty (30) days following the availability of sufficient data, issue to the Building Inspector a letter stating its approval with or without conditions or disapproval with the grounds for disapproval stated in writing.
  - c. The Building Inspector shall additionally review applications for Building Permits (which have received written approval from the Historic District Commission) in the same manner review is made of Building Permit applications outside of the H-1 District, and final issuance or rejection shall additionally be based upon the adopted Building Codes of the City of Westmoreland. The fee charged for Building Permits within the H-1 District shall conform to existing fee schedules for Building Permits in any other zoning district within the City of Westmoreland.
  - d. Inspection of building improvements shall be the responsibility of the Building Inspector. The final inspection will be the joint responsibility of the Building Inspector and a designee of the Historic District Commission.

#### **E. Historic District Commission**

1. Creation and Appointment: In accordance with Tennessee Code Annotated 13-7-401, a Historic District Commission is hereby established. The Mayor and Aldermen shall create a five (5) member Historic District Commission which shall consist of a representative of a local patriotic or historical organization; an architect, if available; a member of the Planning Commission, at the time of their appointment; and the remaining members shall be appointed from the community in general. Historic District Commission members shall be appointed by the Mayor, subject to confirmation by the Aldermen. Appointments to membership on the Historic District Commission shall be arranged so that the term of one (1) member shall expire each year and their successor shall be appointed in the like manner in terms of five (5) years. All members shall serve without compensation. The

members of the Commission shall elect a Chairman from among themselves to preside over meetings.

2. Procedure: Meetings of the Historic District Commission shall be held at the call of the Chairman or by the majority of the membership. All meetings of the Commission shall be open to the public. The Commission shall give notice of the place, date, and time of any public hearings which they hold under the provisions of this Ordinance, by publication in an official newspaper or a newspaper of general circulation at least seven (7) days immediately prior thereto. At least three (3) members of the Commission shall constitute a quorum for the transaction of its business. The concurring vote of a majority of the Commission shall constitute final action of the Commission on any matter before it. The Commission shall keep minutes of its procedures showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact.

3. Powers and Duties:

The Historic District Commission shall have the following powers:

- a) To request detailed construction plans and related data pertinent to thorough review of any proposal before the Commission.
  - i. The Historic District Commission shall, within thirty (30) days following availability of sufficient data, direct the granting of a building permit with or without conditions or direct the refusal of a building permit providing the grounds for refusal are stated in writing.
- b) Upon review of the application for a building permit, the Historic District Commission shall give primary consideration to:
  - i. historic and/or architectural value of present structure;
  - ii. the relationship of exterior architectural features of such structures to the rest of the structures of the surrounding area;
  - iii. the general compatibility of exterior design, arrangement, texture and materials proposed to be used;
  - iv. to any other factor, including aesthetic, which is deemed pertinent.

4. Additional Powers and Duties:

- a) It shall be the duty of the Historic District Commission to make the following determination with respect to the historic district.
  - i. Appropriateness of altering or demolishing any building or structure within the Historic District. The Commission may require interior and exterior photographs, architectural measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any permission to demolish a building or structure, such photographs, drawings, etc. shall be at the expense of the applicant.

- ii. Appropriateness of the exterior architectural features including signs and other exterior fixtures of any new buildings and structures to be constructed within the Historic District.
  - iii. Appropriateness of exterior design of any new extension of any existing building or structure within the historic district.
  - iv. Appropriateness of front yards, side yards, rear yards, off-street parking spaces, location of entrance drives into the property, sidewalks along the public right-of-way, which might affect the character of any building or structure within the historic district.
  - v. The general compatibility of exterior design, arrangement, texture, and material of the building or other structure in question and the relation of such factors to similar features of buildings in the immediate surroundings. However, the Historic District Commission shall not consider interior arrangement or design, nor shall it make any requirements except for the purpose of preventing extensions incongruous to the historic aspects of the surroundings.
- c) Right of Entry Upon Land: The Commission, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance, but there shall be no right of entry into any building without the consent of the owner.
  - d) Liability of Historic District Commission Members: Any Historic District Commission member acting within the powers granted by the Ordinance is relieved from all personal liability for any damage and shall be held harmless by the city government. Any suit brought against any member of the Commission shall be defended by a legal representative furnished by the city government until the termination of the procedure.
  - e) Jurisdiction: The Historic District Commission shall have exclusive jurisdiction relating to historic matters. Anyone who may be aggrieved by any final order or judgement of the Commission may have said order or judgment reviewed by the courts by the procedures of statutory certiorari as provided for in the Tennessee Code Annotated, Sections 27-9-102 and 27-4-103.
  - f) Conflict of Interest: Any member of the Historic District Commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of said Commission shall be disqualified from participation in the discussion, decision, or proceedings of the Historic District Commission in connection therewith.
  - g) To recommend the creation of historic districts or zones to the City Council (Also see TCA 13-7-405)

- h) To Issue Certificates of Appropriateness per TCA Section 13-7-406.
- i) To review requests to construct alter, repair, rehabilitate, relocate or demolish any building structure or other improvement within an established historic district or zone prior to action to deny or approve a certificate of appropriateness.

**F. Maintenance and Repair of Improvements**

1. Every person in charge of an improvement in a historic district shall keep in good repair all of the exterior portions of such improvements and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay, or become damaged or otherwise to fall into a state of disrepair.

**G. Remedying of Dangerous Conditions**

1. In any case where a city enforcement agency shall order or direct the construction, removal, alteration, or demolition of any improvement in a historic district for the purpose of remedying conditions determined to be dangerous to life, health, or property, nothing contained in this chapter shall be construed as making it unlawful for any person, without prior issuance of a letter of approval pursuant to this Ordinance, to comply with such order of direction.
2. However, the enforcement agency shall give the Commission notice of any proposed order or direction which affects or may affect the exterior appearance of any structure, or site, on or in the environs of a historic district.
3. The Commission shall be afforded adequate opportunity to review and provide written comments upon any action proposed by an enforcement agency within a historic district prior to the initiation of any said action.

**H. Injunctive Powers and Penalties**

1. Where it appears that the owner or person in charge of an improvement on a landmark site or preservation site threatens or is about to do or is doing any work in violation of the Ordinance, the City Attorney for the City of Westmoreland shall, when directed by the Mayor or Aldermen, forthwith apply to an appropriate court for an injunction against such violation of this Ordinance. If an order of the court enjoining or restraining such violation does not receive immediate compliance, the City Attorney shall forthwith apply to an appropriate court to punish said violation pursuant to law.
2. A violation of this Ordinance is punishable by a fine of not less than two dollars (\$2.00) and not exceeding fifty dollars (\$50.00) or by imprisonment not exceeding ninety (90) days, or by both such fines and imprisonment. Every day of violation may be held to constitute a separate offense.

## **ARTICLE VII EXCEPTIONS AND MODIFICATIONS**

### **SECTION**

- 7.010 Scope
- 7.020 Nonconforming Uses and Noncomplying Buildings and Other Structures
- 7.030 Provisions Governing Non-Conforming Uses
- 7.040 Non-Complying Building or Other Structures
- 7.050 Lots of Record

#### **7.010 SCOPE**

This article 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 VI and Article X of this ordinance.

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

The districts established in this ordinance (as set forth in district regulations in Article III) 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.

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 conditions resulting from nonconforming uses, which can be 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 noncompliance.

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

## 7.030 **PROVISIONS GOVERNING NONCONFORMING USES**

(Amended by Ordinance 112014-1, December 18, 2014)

### A. Applicability

The provisions of this section are applicable to all industrial, 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 to this ordinance, the construction of which, conforming with such plans, shall have been started prior to the effective date of this ordinance and completion of 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 to this ordinance, may be continued subject to the following provisions.

### D. Special Exception - 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, special 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, special 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

- a) 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.
- b) 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.

c) 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:

- i. In order to comply with requirements of law regarding fire protection, safety of the structure, etc.; or
- ii. 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 the nonconforming use. However, no alteration may be made which would result in a change from one nonconforming use to another nonconforming use. A change will be subject to the provisions found in Section F below and further provided that any such alteration permitted in this section shall take place only upon the zone lot(s) on which the use was operating as of the effective date of this ordinance, or any subsequent amendment thereto.

F. Change of Nonconforming Use

1. General Provisions

- a) For the purpose of this section, a change in use is considered or defined as 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.
- b) 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.
- c) Whenever an owner changes or permits a change from a non-conforming use to a conforming use, the conforming use cannot be changed back to the previous or a different non-conforming use.
- d) A structure used for a nonconforming use may continue to be used for such use unless the use ceases to operate for a continuous period of thirty (30) or more months as established by Tenn. Code Annotated Sec. 13-7-208.

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 on the property 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:

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

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

6. Zone Lot Containing Nonconforming Use

- a) 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

- a) Whenever a nonconforming use is changed to conforming use, the new use shall not be changed to a nonconforming use, 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 on the property or lot (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 conduct the 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 in accordance with the provisions of Tennessee Code Annotated § 13-7-208, as amended.

#### 3. Damage or Destruction of Commercial or Industrial Nonconforming Uses

- a. 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:
  - i. 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.
  - ii. 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 a conforming use. Intent to resume active operations shall not affect the foregoing provision.

## **7.040 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 of a parcel.

### **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 the currently adopted zoning 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.

#### **7.050 LOTS OF RECORD**

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

- A. Where a lot of record, at the time of the adoption of this ordinance, does not own contain land to enable him to satisfy the yard and/or other bulk regulations 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 possible as prescribed by the Board of Zoning Appeals.
- B. No lot which is now or built upon in the future shall be 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.

## **ARTICLE VIII OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS**

### **SECTION**

- 8.010 Off-Street Parking: Purpose
- 8.020 Off-Street Parking: General Requirements
- 8.030 Off-Street Parking Requirements
- 8.040 Off-Street Loading and Unloading Requirements
- 8.050 Design Criteria for Parking Lots
- 8.060 Accessible Permitted Parking
- 8.070 Access Control
- 8.080 Site Visibility
- 8.090 Future Street Lines
- 8.100 Obstruction to Vision at Street Intersection
- 8.110 Right-of-Way Dedication and Acceptance
- 8.120 Traffic Study Requirements

#### **8.010 OFF-STREET PARKING: PURPOSE:**

These regulations require off-street parking and loading facilities in proportion to the need created by each use. The regulations further establish standards for the functional design of such facilities. These regulations are intended to provide for accommodation of vehicles in a functionally and aesthetically satisfactory manner, to reduce congestion on city streets, and to minimize external effects on adjacent land uses and to limit truck parking in residential neighborhoods.

#### **8.020 OFF-STREET PARKING: GENERAL REGULATIONS:**

Off-street parking shall be provided for any new building constructed; for new uses or conversions of existing, conforming buildings; or for enlargements of existing structures.

- A. For new uses, conversions or enlargements of existing, conforming buildings, off-street parking in compliance with these regulations shall be provided for the entire facility before issuance of a certificate of occupancy by the Building Official.
- B. For enlargements of existing structures or uses which do not conform to these regulations, required parking must equal the sum of those spaces furnished by the use prior to the enlargement and the number of spaces required by these regulations for any additional use area.
- C. Reduction in Off-Street Parking: No facility used for off-street parking shall be reduced in capacity to less than the minimum required number of spaces, or altered in design or function to less than the minimum standards prescribed by this section.
- D. Multiple Uses on a Single Property: For sites with more than one (1) use, the parking requirements shall be the sum of spaces required for each use.
- E. Maintenance of Off-Street Parking: All required off-street parking facilities shall be maintained for the duration of the use requiring such facilities. Such facilities are to be used solely for the temporary parking of personal vehicles. Personal vehicles include passenger cars, vans, pickup trucks, recreational vehicles, trailers under twenty (20) feet in length, and boats. Off-street parking facilities may not be used for the sale, display or storage of merchandise, or for the storage and repair of vehicles or equipment.

### **8.030 OFF-STREET PARKING REQUIREMENTS:**

Parking facilities for each land use shall be provided in accordance with the minimum requirements set forth in the following regulations.

- A. When a computation of required parking results in a fraction of 0.5 or greater, the requirements should be rounded up to the next whole number.
- B. Unless otherwise indicated, parking requirements are based on gross floor areas. Gross floor areas for the purpose of this computation do not include enclosed areas devoted to off-street parking or loading.
- C. When parking requirements are computed on the basis of capacity, capacity shall be determined by the building code applicable in the city at the time the use is established.

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 20 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, Semi-Detached and Attached Dwelling, and All Other Dwelling Units: Not less than two (2) spaces for per dwelling unit.
- B. Multi-Family Dwelling:
  - 1. One Bedroom Unit: 1.5 space per dwelling unit
  - 2. Two Bedrooms or More: Not less than two (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. 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 employee on the largest shift.
- E. Any Auditorium, Place of Worship, Stadium, or Other Place of Public Assembly: Not less than one (1) space for each three (3) 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.
- F. 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.
- G. Office and Professional Buildings: Not less than one (1) parking space for each three hundred (300) square feet of office space.
- H. 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.

- I. Medical or Dental Clinic: Not less than four (4) spaces per doctor, plus one (1) additional space for each two (2) employees.
- J. Service Stations: Not less than five (5) spaces for each service bay, or one (1) space for each fourteen hundred (1,400) square feet of lot area or fraction thereof, whichever is greater.
- K. 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.
- L. Other: For buildings and uses not listed, the off-street parking requirements shall be determined by the Board of Zoning Appeals.

1. Certification of Minimum Parking Requirements

- a) 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.

2. Combination of Required Parking Space

- a) 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.

3. Remote Parking Spaces

- a) 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.

Extension of Parking Area into a Residential District

- a) Required parking space may be extended one hundred (100) feet into a residential district, provided that:
  - i. The parking area adjoins a commercial or industrial district.
  - ii. 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.

- iii. The parking space is separated from abutting properties in the residential districts by a buffer strip.

#### **8.040 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>Total Usable Floor Area for Principal Building</b>	<b>Loading Spaces Required</b>
0 to 4,999 square feet	One (1)
5,000 to 20,000 square feet	Two (2)
20,001 square feet and over	Two (2) plus one (1) additional space for each additional 20,000 square feet

The Board of Zoning Appeals may reduce or increase this requirement in the interest of safety where unusual conditions may be present.

#### **8.050 DESIGN CRITERIA FOR 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. Standard parking spaces shall comply with the minimum dimensions specified in the table below. The standard parking space shall be at least nine (9) feet by eighteen (20) feet or 180 square feet in size.

<b>Parking Pattern/Angle</b>	<b>Curb Length per Car (B)</b>	<b>Parking Space Depth (A)</b>	<b>Drive Aisle Width (C)</b>
0	21 feet	8 feet	12 feet
45	13 feet	19 feet	13 feet
60	10.5 feet	20 feet	16 feet
75	9 feet	20 feet	22 feet
90	9 feet	20 feet	24 feet

- C. Access: Entrances and exits for all off-street parking lots shall comply with the requirements of Section 8.070, of this Ordinance.
- D. Drainage: 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. Surfacing: All off-street parking areas shall be surfaced with asphalt, concrete material or any dustless surface 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.

F. Striping: All off-street parking area shall be striped in conformance with the parking dimensions provided in Section 8.050(B) and 8.060 with marking material such as paint, thermoplastic, or other suitable material which is visible and properly identifies parking areas.

G. Lighting:

1. If a parking area is illuminated, all light sources shall be shielded or otherwise designed to direct light away from any adjacent residential land use.
2. Lighting Levels for an off-street parking area shall not exceed three (3) foot candles, which is to be measured at any point along a property boundary of any adjacent residential land use at a height of six (6) feet above the ground level.

H. Safety:

1. All off-street parking areas shall use curbs, protective bumpers, wheel stops or other devices to prevent encroachment onto public rights-of-way of adjoining private property and to protect any landscaping.
2. Circulation patterns for vehicular movements shall be designed in accordance with accepted principles of traffic engineering and safety.
3. All off-street parking areas shall ensure visibility of and between pedestrians and vehicular traffic during both internal circulation and entering/leaving the parking area.

I. Accessible Spaces: Design Requirements:

1. Access Aisle Width: The minimum width for an access aisle for either a car or van parking space is five (5) feet.
2. Car Space: The minimum width for an accessible parking space for a car is eight (8) feet.
3. Van Accessible Space: The minimum width for a van accessible parking space is eleven (11) feet. The space width can be reduced to eight (8) feet if the access aisle width is eight (8) feet.
4. The depth of accessible parking spaces match the required dimension found in Section 8.050(B).

## **8.060 ACCESIBLE PERMITTED PARKING**

A. Off-street parking facilities shall provide parking spaces specifically designed, located, signed and reserved for vehicles licensed for use by the disabled by providing accessible permitted spaces according to the table below. In addition, for multi-family housing, all Fair Housing parking standards for accessible parking shall be provided.



- B. Design criteria for accessible permit spaces is provided in Section 8.050 and must meet all standards within the Americans with Disabilities Act Accessibility Guidelines (ADAAG).
- C. Off-street parking facilities for single-family, duplex, attached and multi-family dwelling uses, located on the same zone lot shall be exempt from accessible permit parking requirements but shall comply with all Fair-Housing Act requirements, when applicable.

Total Parking Space for Development	Required Number of Accessible Parking Spaces
25 Spaces of Less	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of Total Number of Spaces
1,001 or More	20 Plus 1 space for each 100 space above 1,000

**8.070 ACCESS CONTROL:** 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. **Width:** A point of access for vehicles onto a street shall not exceed the following widths in each category:
1. No less than 10 feet wide and no wider than 25 feet for all single-family and two-family residential (duplex) land uses.
  2. No less than 25 feet wide and no wider than 35 feet for all multi-family residential land uses.
  3. No less than 25 feet wide and no wider than 40 feet for all commercial land uses.
  4. No less than 25 feet wide and no wider than 40 feet for all industrial land uses.
  5. Any one-way driveway, regardless of land use, shall have a minimum width of 15 feet.
  6. All points of access shall be constructed to provide for proper drainage of property and public streets.
  7. A minimum of a fifteen (15) inch culvert shall be provided in the ditch line regardless of base zone.
    - a) The only exception to this minimum is if existing upstream or downstream culverts are larger than fifteen (15) inches. In this situation the new driveway culvert must match existing upstream and downstream culvert sizes.
  8. Any access on a State highway shall adhere to Tennessee Department of Transportation (TDOT) regulations.

B. Minimum Driveway Throat Lengths:

1. The minimum driveway depth for single-family and two-family (duplex) residential land uses is 20 feet.
2. The minimum driveway depth for multi-family residential land uses is 40 feet.
3. The minimum driveway depth for commercial land uses is 40 feet.
4. The minimum driveway depth for large scale commercial and industrial land uses is 100 feet. Large scale is defined as greater than 100,000 square feet.

C. Points Of Access: 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:

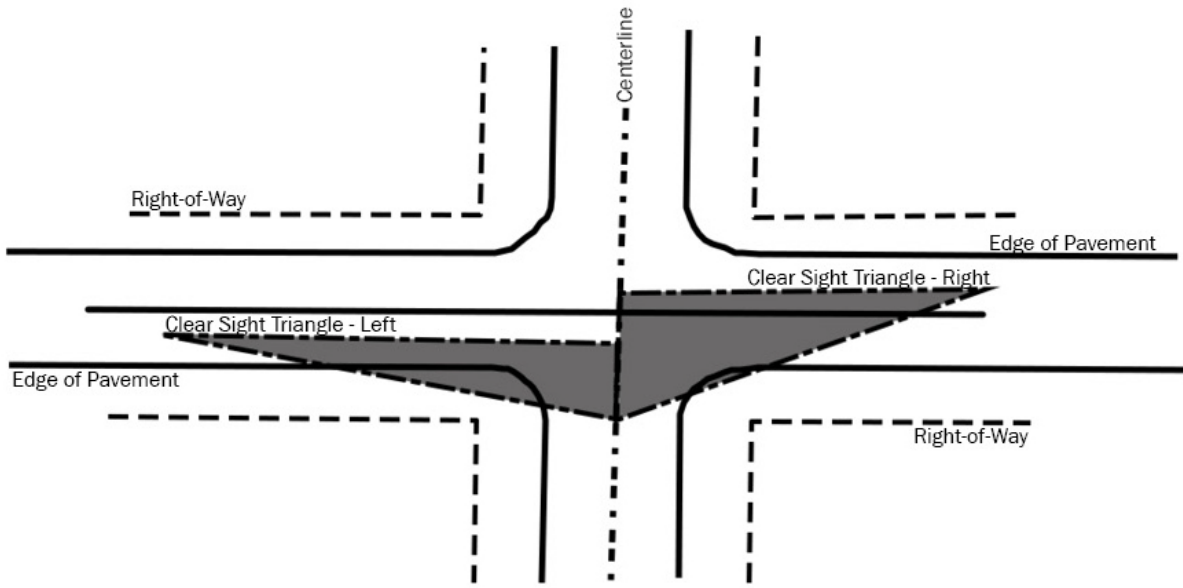
1. There shall be no more than two (2) points of access to any one (1) public street for each four hundred (400) feet of lot frontage. Lots less than one hundred (100) feet in width shall have no more than one (1) point of access to any one public street.
2. A driveway providing access to a single-family or two-family (duplex) lot shall be located at least thirty (30) feet from a local street intersection and fifty (50) feet from a collector street intersection.
3. For land uses other than single-family and two-family residential shall meet the driveway spacing requirements listed below:
  - a) Fifty (50) feet from a local street intersection.
  - b) Seventy-five (75) feet from a collector street intersection.
  - c) One hundred and twenty (120) feet from an arterial intersection.
4. The Planning Commission may restrict any driveway to right-in/right-out movements for the purposes of traffic flow and safety.
5. Commercial, industrial, and multi-family driveways shall be aligned with existing or planned future driveways.
6. Where two (2) local or collector streets intersect, a corner property shall not have more than one (1) driveway on each street.
7. No point of access shall be allowed within twenty-five (25) feet of the right-of-way line of any public intersection.
8. The Planning Commission may approve deviations from the provisions listed in Section 8.070 Access Control, based on an adopted corridor specific access management plan or the applicant demonstrates the property cannot be improved under the provisions of this section and the Planning Commission determining a granted deviation would not be contrary to the public health, safety, and welfare of the community.

9. Curbs: No curbs on city streets or rights-of-way shall be cut or altered without approval of the Westmoreland Public Works Department Director, or if a state highway, a permit must be obtained from the Tennessee Department of Transportation.
10. Driveways: Where two (2) driveways are provided for one (1) lot frontage, the clear distance between any two (2) driveways shall not be less than twenty-five (25) feet. No modes of ingress or egress shall be designed so that vehicles are required to back directly onto a public street.
11. Lot Must Abut a Public Street: No building shall be erected on a lot commercial or industrial zoned which does not abut at least one (1) publicly approved and accepted street for a distance required by the underlying base zone and/or any requirements of any overlays zoning districts. A publicly approved street must have been shown on a final subdivision plat or as a proposed permanent street right of way as approved by the Westmoreland Planning Commission. If subdivision plats do not have approved right of ways (proposed or actual), the plat shall be brought back to the Planning Commission to obtain such approval.
12. Permits: A permit to construct a driveway within the municipal boundaries of the City of Westmoreland shall be obtained prior to the commencement of any work related to the driveway.

**8.080 SITE VISIBILITY:** In order to safely accommodate vehicular movements to and from public streets, the following sight distance and visibility provisions shall be required.

A. Visibility Areas:

1. At the intersection of any street, public or private, no fence, wall, hedge or other planting or structure shall be constructed, placed, or maintained within the sight-triangle that will obstruct a driver's sight at any point above the center line grades of the intersecting streets.
2. In all zoning districts, no fence, wall, hedge or other planting or structure shall be allowed on private property that will obstruct a driver's sight at the point of intersection between a private driveway and a public street that creates interference with visibility of traffic for a driver existing a driveway, alleyway, or street.
3. Landscaping ok between certain heights.
4. The sight triangle is a triangular shaped area formed by the street right-of-way lines and a straight line joining the right-of-way lines as shown in the figure below.



#### **8.090 FUTURE STREET LINES:**

- A. For the purpose of providing adequate space for the future widening of streets, required front yards, as required in Article VI of this ordinance, shall be determined by the rights-of-way as shown on the official Westmoreland Major Thoroughfare Plan.
- B. The planning commission shall not require an owner of private property to dedicate real property to the public or pay money to a public entity in an amount that is determined on an individual and discretionary basis, unless there is an essential nexus between the dedication or payment and a legitimate local governmental interest (see *Nollan v. California Coastal Commission*) and the dedication or payment is roughly proportional both in nature and extent to the impact of the proposed use or development of the property (see *Dolan v. City of Tigard*).
- C. An owner of private property required to make dedication or pay money in violation of this subdivision may seek relief through a common law writ of certiorari in chancery court.

#### **8.100 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 (35 feet?) from their intersection, there shall be no obstruction to vision between the height of three (3) 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.

#### **8.110 RIGHT-OF-WAY DEDICATION AND ACCEPTANCE:**

- A. Acceptance of formal Offers of Dedication rights-of-way and associated easements shall be by formal action by the Mayor and Board of Aldermen.

- B. The Planning Commission shall provide, through a resolution, a recommendation to the Board of Mayor and Aldermen.
- C. The Board of Mayor and Aldermen will take the final action to accept or not accept the proposed right-of-way dedication.
- D. The approval of a subdivision plat by the Westmoreland Planning Commission shall not be deemed to constitute or imply the acceptance by the City of any right-of-way, easement or other public infrastructure shown on the plat.
- E. The project developer is bound to the City for all improvements, regardless of surety status, until formal acceptance has been approved by the Board of Mayor and Aldermen.

#### **8.120 TRAFFIC IMPACT STUDY REQUIREMENTS:**

The following standards apply to all developments in all zone districts as established in Article III of this zoning ordinance.

##### **A. Traffic Impact Study Requirements**

1. Requirements for a Traffic Impact Study: A Traffic Impact Study (TIS) shall be required for any proposed development or project that matches the following standards.
  - a) Residential Developments with a daily trip generation of 1,000 gross daily trips or more as determined using the current edition of the ITE Trips Generation Manual.
  - b) Non-Residential Development with a daily trip generation of 1,000 gross daily trips or more as determined using the current edition of the ITE Trips Generation Manual.
  - c) Combinations of Residential and Non-Residential land uses which generates 1,000 vehicular trips or more per day or 100 or more peak hour vehicular trips.
2. Levels of Traffic Impact Study Required: Three (3) levels of Traffic Impact Studies have been identified based on the number of vehicular trips that a development is projected to generate in a 24-hour period. The Table below provided specific information regarding the level of traffic impact study required.
  - a) Level 1: Requires the analysis of each access the development has to an existing roadway. Access points to be analyzed include public roads, joint access easements and private driveways.
  - b) Level 2: Requires the analysis of each access that the development has to an existing roadway, and to the first control point beyond those access points. A control point is an intersection controlled by a traffic signal or stop sign on the existing roadway onto which the development has access. For cases where traffic control device does not exist, the City Engineer will determine the extent of the study.

- c) Level 3: Requires a complex traffic access and impact study, addressing each access point, the first control point beyond each access point, and the nearest collector/collector intersection or street of higher classification or as determined by the City Engineer. The exact area to be studied will be determined by the City Engineer with input from the study preparer.

<b>Traffic Impact Study: Level of Study Required</b>	
24-Hour Trip Generation	Level of TIS Required
1,000 to 3,000 Average Daily Trips	Level 1
3,000 to 6,000 Average Daily Trips	Level 2
6,000 or Higher Average Daily Trips	Level 3

3. Waiver of Traffic Impact Study: a property owner who can show that a development will not have a significant impact on the transportation system or adversely affect the existing level of service of a roadway or an intersection may seek a waiver of a TIS from the City Engineer. Such a request shall be made in writing and shall be in accordance with guidelines established by the City Engineer. A Traffic Impact Study also may be waived by the City Engineer in cases where the applicant and the City Engineer agree on the nature and scope of the applicant's responsibilities for mitigating the impacts of traffic generated by the development. A waiver granted by the City Engineer must be documented in writing and must accompany an application to the Building Inspector.
4. Approval of Traffic Impact Study: The Traffic Impact Study shall be approved by the City Engineer, with all applicable performance requirements incorporated into any site and building plans submitted to the Building Inspector.
5. Implementation of Traffic Impact Study: The Traffic Impact Study may take into account the Capital Improvements Budget of the State of Tennessee and may rely on improvements which have been funded and scheduled for construction.
- a) Any required traffic improvements which have not been funded or otherwise completed by the City of Westmoreland or the State of Tennessee shall be completed by the developer prior to the issuance of a use and occupancy permit by the Building Inspector.
- b) When it can be demonstrated that a development will only partially contribute to the need for additional off-site improvements, the Building Inspector may require a pro-rata contribution under guidelines established by the Westmoreland Planning Commission and the City Engineer.
- c) The Building Inspector will certify that all traffic improvements to be provided by the developer or property owner have been completed before a use and occupancy permit shall be issued.

- d) If the development is to be phased, the sequence and timing of a development shall be incorporated into the Traffic Impact Study. For projects which include multiple phases and/or multiple buildings, the Building Inspector shall certify the scheduling of improvements through the site plan approval process.
- e) If no phasing is identified in the Traffic Impact Study as approved by the City Engineer, all study recommendations shall be satisfied at the initial stage of development.

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## **ARTICLE IX**

### **SIGN REGULATIONS**

#### **SECTION**

- 9.010 Purpose and Intent
- 9.020 Definitions
- 9.030 Prohibited Signs
- 9.040 Exempt Signs
- 9.050 Temporary Signs
- 9.060 Non-Conforming Off-Premise/Off-Site Billboards
- 9.070 General Provision for Permanent On-Premises Signs
- 9.080 Permitted On-Premise Signs in Residential
- 9.090 Permitted On-Premise Signs for Large Scale Residential and Multi-Family Development
- 9.100 Permitted On-Premise Signs for Non-Residential Developments
- 9.110 Standards Regulating Glare and Sign Illumination
- 9.120 Alternative Sign Plan
- 9.130 Freestanding Sign Regulations
- 9.140 Wall Mounted Sign Regulations
- 9.150 Multi-Tenant Development and Out Parcel Sign Regulations

#### **9.010 PURPOSE AND INTENT**

It is the purpose of these sign regulations to promote the public health, safety, and general welfare of the community through a comprehensive system of reasonable, consistent, and nondiscriminatory sign standards and requirements. These sign regulations are intended to:

1. Enable the identification of places of residence and business.
2. Allow for the communication of information necessary for the conduct of commerce and to inform the public of community events and activities.
3. Lessen hazardous situations, confusion and visual clutter caused by proliferation, improper placement, illumination, animation and excessive height, area and bulk of signs which compete for the attention of pedestrian and vehicular traffic.
4. Enhance the attractiveness and economic well-being of the city as a place to live, vacation and conduct business.
5. Protect the public from the dangers of unsafe signs.
6. Permit signs that are compatible with their surroundings and aid orientation and preclude placement of signs in a manner that conceals or obstructs adjacent land uses or signs.
7. Encourage signs that are appropriated to the zoning district in which they are located and consistent with the category of use to which they pertain.



8. Curtail the size and number of signs and sign messages to the minimum reasonably necessary, to identify a residential or business location and the nature of any such business.
9. Establish sign size in relationship to the scale of the lot and building on which the sign is to be located or to which it pertains.
10. Preclude signs from creating conflicts with the signs, or structures on adjoining sites.
11. Regulate signs in a manner to not interfere with, obstruct vision of or distract motorists, bicyclists, or pedestrians.
12. Require signs to be constructed, installed, and maintained in a safe and satisfactory manner.
13. Preserve and enhance the natural and scenic characteristics of this community and to promote community aesthetics and traffic safety.
14. Protect the future of public rights-of-way. Regulate the location of signs so that reasonable expansion of the public right-of-way can occur in conformance with the City's General Development and Transportation Plan and without disturbance of the existing conforming signs.
15. Encourage the removal of non-conforming signs or the replacement of non-conforming signs with conforming signs.

#### B. Applicability and Regulation

1. **Applicability:** A sign shall be erected, placed, established, painted, created, or maintained on private property only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance.
2. The word "sign" is chosen to signify all non-verbal communication in public viewed area because of its traditional use. The word "graphic" is synonymous with "sign" and the two may be used interchangeably within the context of the sign regulations. A sign shall not be considered a principal use except where legally permitted as a non-conforming sign for outdoor advertising as defined in Tenn. Code Annotated, Title 54, Chapter 21.
3. **Regulation:** Before erecting, altering, or relocating any signage, the owner or his agent shall obtain a sign permit from the City, except as otherwise exempted herein. If any person, company, or facility violates the provisions of this ordinance, the Building Inspector or designee, shall take any or all the enforcement actions prescribed in the Zoning Ordinance to ensure compliance with, and/or to remedy a violation of this Ordinance.

#### C. Code Compliance and Construction

1. **Code Compliance:** These sign regulations are intended to compliment the various codes and ordinances of the City of Westmoreland. Wherever there is inconsistency between these sign regulations and other regulations of the City of Westmoreland, the

more restrictive shall apply. Reference is made, but not limited to the following regulations:

- i. Building Code
- ii. Electrical Code
- iii. Zoning Ordinance
- iv. Westmoreland Municipal Code

2. **Permanency Required:** All signs, except temporary signs, shall be constructed of permanent materials and shall be permanently attached to the ground or building unless an exemption is provided in the Zoning Ordinance.

#### D. Permits and Inspections

1. Permit Required: No sign or sign structure, except as provided in Sections 9.040 Exempt Signs and 9.050 Temporary Signs, shall be erected, displayed, altered, relocated, or replaced until a sign permit has been issued. All signs shall be located on the premises of the principal use to which they pertain except for off-premises signs as permitted. The following items are required when applying for a sign permit.
  - i. Completed sign permit application(s). If applying for more than one (1) sign, all signs shall be submitted on a separate application, however if submitted at the same time may be processed on the same permit.
  - ii. Illustration/Sketch of sign(s) showing all dimensions of sign(s).
  - iii. Illustration/Sketch or picture of
    1. Front façade showing width of business frontage and location of proposed sign as well as all other existing signs if wall-mounted sign.
    2. Site plan showing width of street frontage and location of proposed sign if freestanding.
  - iv. Additional information may be required such as but not limited to:
    1. Engineered footer drawing
    2. Electric permit
    3. Proof of legal non-conformance if applicable
    4. Land/Property Survey
  - v. All outside agency permits must be provided with any application for a City sign permit.
  - vi. No signs shall be permitted on any property without a permit except where exempted.
2. Fees: Each application for a sign permit shall be accompanied by the applicable fees.
3. Inspections: Inspections by the Building Inspector or designee are required at the footing phase of all new freestanding signs and commercial flagpoles. Final inspections are required after the completion of all approved and permitted signs.

4. Expiration: If an approved sign is not completely constructed within a period of six (6) months from the date the sign permit was originally issued, the permit shall expire and become null and void.
  5. Revocations: The Building Inspector or designee shall investigate any violations of these sign regulations and shall revoke a sign permit if there is any violation of the provisions of these sign regulations or if any material fact was misrepresented in either the application and/or plans.
- E. Violations: Any of the following shall be a violation of this ordinance and shall be subject to the enforcement remedies and penalties provided by this ordinance and by State law:
1. To install, create, erect, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign on the lot on which the sign is located.
  2. To install, create, erect, or maintain any sign requiring a permit without obtaining the required permit.
  3. To fail to remove any sign that is installed, created, erected, or maintained in violation of this ordinance, or for which the sign permit has expired.

## **9.020 Definitions**

Words and phrases related to the sign regulations in this ordinance shall have the meanings set forth in this Section and in Section 2.020.

**Abandoned, Obsolete, Defaced Sign** - Any sign which: (1) advertises or pertains to a business, profession, commodity, service, product or entertainment which has not been conducted, sold, or offered on the premises upon which said sign is located for a continuous period of ninety (90) days or (2) was created for an occupant, product, or business unrelated to the present occupant of the premises or (3) a site plan or final master development plan has expired or (4) the sign faces are missing.

**Airborne Sign** – See, Inflatable and Airborne Sign

**Animated Sign** - Shall be construed to be a sign regardless of source of movement that is animated, moving, or rotating, or uses movement or change of lighting to depict action or create a special effect or scene.

**Awning** - An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable.

**Awning Sign** - An awning sign is any lettering, numbering or logo that is placed on the valance/curtain area of an awning. See Section 9.100 for awning sign regulations.

**Banner** - Any sign constructed of canvas, cloth, paper, flexible plastic, fabric, or any other nonrigid material.

Beacon - Any stationary or revolving light with one or more beams that flashes or projects illumination into the atmosphere or is directed at one or more points on the same zone lot.

Billboard - An off-premises sign that is affixed to or erected upon a freestanding framework that directs attention to a profession, business, commodity, service, product or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

Building Inspector or Designee – Individual or designee charged with enforcement of the regulations within this ordinance.

Building Marker - Any sign indicating the name of a building, date and/or incidental information about its construction, which is cut into a masonry surface or made of bronze or other permanent material.

Cabinet Sign - Sign panel(s) within a frame.

Canopy - A rigid or non-rigid multisided overhead structure covered with fabric, metal, or other material, but not enclosed by walls and supported by a building at one (1) or more points or extremities, and by columns or posts embedded in the ground at other points or extremities.

Canopy Signs – A canopy sign is any lettering, numbering or logo that is placed on a canopy and is considered wall-mounted signage.

Changeable Copy Sign (Automated Changeable Copy) - A sign or portion thereof that displays letters or numbers, characters, symbols, graphics or illustrations, (1) which are not themselves an illumination device, and (2) which may be changed or re-arranged by computer or microprocessor generated electronic commands, which commands may be programmed to change at pre-determined intervals or may be activated by an operator from either a proximate or a remote location. Automated changeable copy signs such as “flip matrix,” and “segmented.” Excludes electronic display screen and electronic message center signs.

Changeable Copy Sign (Manual) - A sign or portion thereof in which the message can only be changed manually.

Channel Letters - Individual letters mounted directly to the wall.

Commemorative Sign – A sign, tablet, or plaque memorializing a person, event, structure or site.

Community Event Sign - A temporary sign advertising or announcing a special community wide event such as fairs, job fairs, carnivals, circuses, sporting events, flea markets, educational, or those conducted by, or sponsored by, or on behalf of a unit of local government, a charitable organization, a not-for-profit corporation, or religious event or function.

Contractor Sign - A temporary sign placed by a contractor or other professional business such as, but not limited to, a landscaper or painter, to advertise the work currently being done on that property.

Directional Sign - A sign that provides on-site directional assistance for the convenience of the public, such as, entrances, exits, drive-thru windows, parking lots, or signs of a similar nature.

Directory Sign - See, Multi-Tenant Wall-Mounted Sign

Display Surface Area - The area of a sign that is used for display purposes excluding the minimum frame and supports. In relation to signs that do not have a frame or separate background, sign area shall be computed on the basis of the least rectangle, triangle or circle large enough to frame the display. See Section 9.140.

Electronic Display Screen Sign - A sign, or portion of a sign, that displays an electronic image or video, which may or may not include text and animation. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

Electronic Message Center Sign - Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text from wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Electronic message center signs may also include electronic time and temperature and variable message signs.

Equipment/Machinery Signage - Attached sign frame that is incorporated into/onto machinery, equipment, cart corrals, gas pumps, vending machines, newspaper racks, telephone booths, fee collection boxes or any other type similar device, which identifies or advertises a product or service dispensed by the machine or equipment, or offered on the same zone lot in which it is located.

Face/Sign Face – See, Display Surface Area

Flags - Any fabric, or bunting containing distinctive colors or patterns, and used as a symbol of government, institution, business, or other entity. Neither the flag, flagpole nor other support structure may extend over a public right-of-way unless approved by City Council, or an adjoining property line.

Flagpole, Ground - A freestanding structure on a parcel of record and used for the sole purpose of displaying flags of political entities. For purposes of the Sign Ordinance, a flagpole is deemed to be a sign support structure and subject to all requirements applicable to sign support structures as found in the International Building Code.

Flagpole, Outrigger Wall-Mounted – An outrigger wall-mounted flagpole is one that extends outward from a wall at an inclined angle.

Flashing Sign – Shall be construed to be any sign that flashes or blinks, appears to flash or blink or gives a spectacular or twinkle illusion.

Freestanding/Ground Sign – A sign supported by a sign structure that is secured in the ground and that is wholly independent of any building or object, other than the sign structure, for support.

Frontage-Business - The façade of the business that abuts the required front yard as stipulated in this zoning code shall be considered the business frontage.

Frontage-Primary Business - For individual businesses with multiple frontages the primary business frontage shall be considered the façade of the business that abuts the required front yard as stipulated in this zoning code. The entrance door does not have to be in this façade.

Frontage-Secondary Business - An additional elevation not designated as a primary business frontage that has a public entrance to the business, faces a public right-of-way, has a drive-thru window and/or a primary parking area.

Grade Level – The finished average ground elevation around the perimeter of the sign.

Graffiti – non-approved artistic work or random markings applied to buildings, walls, accessory structures or uses as an act of vandalism on public or private property.

Historical Marker - a placard or fixture erected by a historic board, the state, county or city describing in text and/or with photos an event of prominence or community interest that occurred on or near the property or right-of-way on which it is placed.

Grand Opening – The introduction, promotion, or announcement of a new business, or the announcement, introduction or promotion of an established business changing ownership or location. “Grand Opening” does not mean an annual or occasional promotion of retail sales, or service by a business.

Height (of Sign) - The vertical distance measured from the base of the sign at grade level to the top of the sign structure.

Human Directionals - Also known as sign twirlers, sign spinners, human arrows, sign holders, and mascots.

Illuminated Sign - A sign lighted by or exposed to artificial lighting either by lights on or in the sign not directed toward the sign.

Illuminated Sign (Direct) - All illuminated signs not included in the definition of “Luminous Background” or “Illuminated Sign (Indirect).”

Illuminated Sign (Indirect) - Illumination of a sign that is affected by a source of light not contained within or on the sign itself.

Incidental Sign - A sign which includes information of a general directive or informational nature such as no parking, handicapped parking, loading area, self-service, and rest room; which bears no advertising matter.

Inflatable and Airborne Sign - A stationary or mobile inflated device of any nature used to attract attention.

Legal Notices or Official Instruments - Any sign erected and maintained by public officials or public agencies.

Luminous Background - A sign created by trans-illuminating or backlighting of a translucent plastic or glass panel, or panels of similar material, which may be integrally pigmented, painted, or opaqued.

Menu Board - A permanently affixed freestanding or wall-mounted sign displaying food and beverage information sold in connection with a restaurant.

**Multi-Tenant Development** - A permanent on-premises freestanding sign, in non-residential, mixed use and industrial zone districts, to advertise businesses within a multi-tenant development with 5 or more tenants; is approved under one (1) preliminary master development plan or site plan; with or without individual street frontage and with a common parking lot or private drive. Multi-Tenant Developments that do not qualify for a Multi-Tenant Development sign shall share a single ground sign per Section 9.150.

**Multi-Tenant Wall-Mounted Sign** - An identification sign for a commercial site with two (2) or more tenants, displaying the names of each tenant on the site.

**Mural Image** – A professionally prepared artwork design or representation, comprised of two or more colors or hues, applied to a building wall, free-standing wall or fixed accessory structure or use, expressed in a form and manner as to garner viewer interest. (A mural is not considered a sign.)

**Neon Sign** - A sign containing glass tube lighting that is bent to form letters, symbols, or other shapes. Gas and phosphors are used in combination to create a colored light.

**Nonconforming Sign** - A sign lawfully existing and maintained at the time of adoption, revision, or amendment of this ordinance, which has subsequently come under the requirements of this ordinance, but no longer conforms because of said revision or amendment.

**Off-Premises Sign** - A permanent or temporary sign that directs attention to a profession, business, commodity, service, product, event or entertainment not located or sold on the premises on which the sign is located.

**On-Premises Sign** - Any sign identifying or advertising a profession, business, commodity, service, product, event or entertainment located on the premises where the sign is installed and maintained.

**Out Parcel** - Individual lots located within a multi-tenant development; a tract of land adjacent to a larger tract of which it was originally an integral part.

**Pennant Streamer** - A geometric shaped sign, with or without a logo, made of flexible materials suspended from one (1) or two (2) corners on a stringer with other such signs to create the impression of a line.

**Political Sign** - A temporary sign expressing support for a candidate for public office or another position regarding a public figure or a public issue, but bearing no commercial message whatsoever.

**Portable Sign** - Any sign, by design or construction, intended to be easily and readily relocated, and not permanently affixed to the ground, a frame, a building, or other structure. Portable signs shall include, but are not limited to, signs mounted upon a trailer, wheeled carrier, or other nonmotorized mobile structure with or without wheels.

**Projecting Sign** - A projecting sign is any sign that is permanently attached to a building and projects outward. A projecting sign may project outward over a sidewalk if the building is built to the right-of-way.

**Public Purpose Sign** - A temporary or permanent sign erected by a governmental or quasi-governmental entity for the sole purpose of displaying public awareness or public health, safety and welfare information. Public purpose signs may be erected on public property with permission from the appropriate governmental entity/agency.

**Raceway** - Individual letters mounted on a track (raceway). Track (raceway) is then mounted to the wall.

**Residential Sign** - An accessory sign which indicates the names and/or address of the occupant or a permitted home occupation.

**Right-Of-Way** - Land dedicated for use as a public road. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, utility poles and drainage facilities.

**Roof Line** - The top edge of a peaked roof or, in the case of an extended façade or parapet, the uppermost point of said façade or parapet.

**Roof Sign** - A sign erected on a roof or signs that project above the highest point of the roof line.

**Sign** - Any writing (including letter, word, or numeral); pictorial presentation (including illustration or decoration) containing a commercial or non-commercial message or representation of services or products provided on the property; emblem (including device, graphic, symbol, or trademark); flag (including banner or pennant); inflatable structure; or any other figure or similar character, which: 1. Is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or other structure, and; 2. Is used to announce, direct attention, or advertise.

**Street Frontage** - The length of the property line(s) of any single lot or zone lot along a public way.

**Suspended Sign** - A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

**Temporary Sign** - A sign intended to display messages of a temporary nature. Portable signs or any sign not permanently embedded in the ground or permanently affixed to a building or structure embedded in the ground are considered temporary signs.

**Traffic Control Sign** - Temporary or permanent signs identifying traffic control measures, such as stop, yield, and similar signs, the sign face of which meet the Manual for Uniform Traffic Control Devices and which contain no logo or commercial message of any sort.

**Vehicle Sign** - A permanent or temporary sign affixed to, painted on, or placed in or upon any parked vehicle, parked trailer, or other parked device capable of being towed, which is displayed in public view such that the primary purpose of said display is to attract the attention of the public, rather than to serve the business of the owner thereof in the manner which is customary for said vehicle.

**Wall-Mounted Sign** - A sign fastened parallel to or painted on a wall of a building or structure in such a manner that the wall is the supporting structure for or forms the background surface of the sign.

**Warning Sign** - Indicates the dangers of trespassing, swimming, animals, or similar hazards for non-residential uses.



Wind Sign - Any banner, pennant, ribbon, spinner, streamer, inflatable sign, balloons, or similar device, or object or material, fastened in such a manner as to move upon being subjected to pressure by wind.

Window Sign - A sign posted, placed, painted, or affixed to the interior or exterior surface of a window or door of a building with its message intended to be visible and readable from the public way.

**9.030 Prohibited Signs:** It shall be unlawful to erect, cause to be erected, maintain, or cause to be maintained, any sign not expressly authorized by, or exempted from, this Section. Refer to Section 9.020 for definition of each type of sign.

- A. Animated Signs not otherwise permitted herein and including images displayed on digital signs.
- B. Beacons and/or searchlights.
- C. Billboards, however, existing billboards may be replaced with a digital sign as identified in this ordinance.
- D. Digital Signs are prohibited within Historic districts, on any property designated by the City Council as an historic property, and on buildings. No such signs shall be visible from the street through windows or openings in the building, including any digital signs displaying a video or continuous message and animated signs.
- E. Flashing Signs or strobing signs (Applies to interior if visible from outside, and exterior signage)
- F. Human Directionals are prohibited in the rights-of-way
- G. Pennant Streamers
- H. Portable Signs
- I. Roof Signs
- J. Vehicle Signs

1. **Residential Districts:** Any sign which is contained in, suspended from, attached to, or painted on a vehicle such as, but not limited to, vehicular trailers, trucks, recreational vehicles, boats, automobiles, truck campers, travel trailers, mobile homes, motorcycles, lawn implants or implements of husbandry, parked on any street or on private or public property for more than seventy-two (72) consecutive hours and which are marked to attract the attention of the public for the purpose of selling, advertising, displaying, demonstrating, or other similar purposes are prohibited. This is separate from the provisions of Section 10.040 Home Occupations. Vehicles parked on the property for the purpose of current construction shall be permitted for a maximum of thirty (30) consecutive days or, until an approved final inspection is received for construction in which a permit is required.

2. **Non-Residential Districts:** Any sign which is contained in, suspended from, attached to, or painted on a vehicle or vehicular trailer, unless such vehicle is in operable condition, carrying all current and valid licenses, and used primarily for the transportation in the everyday and ordinary course of business of the owner thereof and parked in a single designated parking place. Any sign constructed in the bed of a pick-up truck advertising the identity of a business or products available on or off the premises shall be included herein as a prohibited sign. Delivery vehicles used primarily for the transportation of goods, containing any form of company signage advertising the identity of a business or products available are strictly prohibited and shall be parked behind the front line of the building unless being actively loaded or unloaded. If parking on the property behind the front line is not possible, a delivery vehicle shall be parked in a single designated parking place, or as shown on an approved final master development plan or site plan.
- K. Nonconforming Sign(s): except as permitted by Tenn. Code Annotated, Section 13-7-208 (h) as amended from time to time, or permitted upon granting an Alternative Signage Plan per Section 9.120.
- L. Signs or sign structures that interfere, in any way, with free use of any fire escape, emergency exit, or that obstruct any window to such an extent that light or ventilation is reduced to a point below that required by any provision of this Article or other regulations of the City of Gallatin.
- M. Signs that resemble any official sign or marker erected by any governmental agency, or that by reason of position, shape, or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic-control device.
- N. Signs that contain any lighting or control mechanism that causes unreasonable interference with radio, television, or other communication signals
- O. Signs erected on public or private property (such as private utility poles, trees, rocks, utility poles, guy wires, sign poles on which a sign is already permitted, or on other public regulatory or informational signs within rights-of-way), other than signs erected by public authority for public purposes or as otherwise permitted by the Mayor and Alderman.
- P. Signs that emit audible sound, odor, or visible matter such as smoke or steam
- Q. Signs containing red, green or blue lights that might be confused with traffic control lights which are: (1) located within five (5) feet of public rights-of-way or (2) located within one hundred (100) feet of traffic control lights
- R. Signs that are of such intensity or brilliance as to cause glare or impair vision. The Building Inspector or designee shall determine whether the intensity or brilliance causes glare or impedes vision according to Section 9.110.

- S. Exterior or interior decorative lighting including but not limited to, strings, strips or individual bulbs outlining architectural features including windows and doors, containing LED, neon or incandescent lighting, which are displayed to attract attention of the public. This does not include traditional holiday decorations.
- T. Temporary signs with digital display.
- U. Neon signs and billboards are prohibited on the structure or on the lot on which the establishment is located.

#### **9.040 Exempt Signs:**

##### **A. Guidance and Restrictions for the Use of Sign:**

1. The following exempt signs shall not require a permit, but may be subject to the restrictions imposed by Section 8.070 Access Control and other relevant parts of this Article, and/or other City code approval requirements.
2. An exempt sign shall not be erected so as to create a hazard of any kind through the obstruction of vision by motorists and pedestrians.
3. The Building Inspector or designee shall determine whether a sign's placement is hazardous or vision is obstructed.
4. Signs shall not be located in the rights-of-way, except when authorized by the governmental agency maintaining such right-of-way.

##### **B. Permissible Exempt Signs:**

1. Building Marker
2. Commemorative Sign/Historical Marker
3. Equipment/Machinery Signage
4. Flags on flagpoles in residential districts
5. Holiday lights and decorations with no commercial message
6. Incidental Signs
7. Legal Notices and Official Instruments
8. Traffic Control Signs which meet the requirements in the Manual for Uniform Traffic Control Devices.
9. Warning Signs
10. Signs placed within an athletic field intended for be viewed from within the field.

#### **9.050 Temporary Signs**

##### **A. Guidance and Restrictions for the Use of Signs**

1. Temporary signs are permitted to indicate temporary special events activities or messages without regard to content. Special events include, but are not limited to, grand openings, new business locations, business closings and special promotional events such as seasonal sales, services and product promotions.

2. Temporary signs are also permitted to indicate the availability of goods for sale within a temporary structure, such as a tent.
3. A temporary sign shall not be constructed of or operated by electrical, electronic, or mechanical parts or erected so as to create a hazard of any kind through the obstruction of vision by motorists and pedestrians.
4. Temporary signs shall be non-illuminated and shall not include profane messages.
5. The Building Inspector or designee shall determine whether a sign's placement is hazardous or vision is obstructed.
6. Temporary signs shall not be mounted on a street sign or a public utility pole.
7. Signs shall not be located in the rights-of-way unless authorized by the agency maintaining the roadway, which is either the Westmoreland Public Works Department, Tennessee Department of Transportation (TDOT), or a neighborhood association if the roads are private.
8. Temporary signs shall not include a digital display.

#### **9.060 Non-Conforming Off-Premises/Off-Site (Billboard) Signs**

##### **A. Replacement of Non-Conforming Off-Premises (Off-Site/Billboard) Signs**

1. A permitted non-conforming off-premises or off-site/billboard sign may be replaced as permitted by a sign complying with Tenn. Code Annotated, Title 13, Section 13-7-208 (h). However, if an off-premises sign, including an off-site/billboard, is replaced with a digital sign then no expansion of the sign shall be permitted. Any off-premises signs other than an off-site/billboard currently permitted by the Tennessee Department of Transportation (TDOT) and/or the City of Westmoreland is a non-conforming sign. Any billboard replaced under this provision shall be considered a non-conforming use and structure.

##### **B. Replacement Restrictions**

1. Maximum Number of Permitted Non-Conforming Off-Site/Billboard Signs. The maximum number of permitted non-conforming off-site/billboard signs shall be limited to those signs existing on May 17, 2016.
2. Off-Site Sign Inventory. The City shall maintain an inventory of offsite/billboard signs within the city.
3. Off-Site Signs Within Areas Annexed into The City. If a property is annexed into the city and contains an existing legally permitted off-site/billboard sign at the time of annexation, the sign(s) shall be, upon annexation, added to the city's inventory of off-site/billboard signs.

4. Replacement Signs. A permit for the construction of a replacement off-site/billboard sign with a digital billboard may only be issued after the removal of the existing off-site sign(s) and support structures unless said pole is to be used as a replacement sign per Section 9.060(C)(4). Said sign permit application shall be submitted within 180 days of the removal of the billboard (off-site signs) being replaced.

C. Design Of Replacement Off-Premises (Off-Site/Billboard) Signs.

1. Any off-premises (off-site/billboard) sign replaced as permitted herein shall be placed in the same location as the previously permitted sign. For purposes of permitting the replacement sign the same location shall mean within five (5) feet of the location of the previous sign and the replacement sign shall comply with all required setbacks for signs as required by Section 9.070.
2. Any off-premises (off-site/billboard) sign replaced shall be the same height or lesser height of the sign being replaced.
3. Any off-premises (off-site/billboard) sign replaced with a digital sign shall be no less than 2000 feet from any other existing or permitted billboard signs utilizing an electronic display screen (digital) sign.
4. Any off-premises (off-site/billboard) sign replaced as permitted in this section, shall be erected on a single pole or ground mounted column constructed completely with, or sheathed in, decorative material including brick, stone, stucco treated frame or ornamental iron base and shall contain a border around the face of the sign matching the color of the support column.
5. No single-faced off-premise (off-site/billboard) sign shall be replaced with a double-faced or more faced billboard or digital sign.
6. Any off-premises (off-site/billboard) sign replaced shall require the installation of low-level landscaping consisting of a continuous hedge row of shrubs and trees of a species on the leased or owned parcel surrounding the base of the sign extending a minimum of five (5) feet from the base of the sign. No chain link or wire fencing shall be placed around the base of the sign.
7. Any replacement off-premises (off-site/billboard) sign shall be located at least two hundred and fifty (250) feet from any residentially zoned property measured from the closest point of any structural element of the sign to the residentially zoned property boundary.
8. No replacement sign shall be permitted to be placed on top or under an existing billboard or besides an existing billboard. To be eligible for the replacement with a digital sign, any side-by-side or stacked billboards must be removed and replaced, within the timeframe described herein, only with a single digital billboard sign of a size no larger than the larger of the two (2) billboards.

9. All existing billboards replaced with a digital or automatic changeable message copy may include a digital sign face for 100% of the coverage of the sign or display surface area.
10. All text size on any replacement billboard shall of such sufficient size to be clearly legible from a distance of 500 feet.
11. Any billboard replaced with a digital copy shall be limited message to remain static for a minimum of eight (8) seconds with a maximum change time of two (2) seconds.
12. The digital sign shall contain a default design that will freeze the sign face in a legible image or position if a malfunction occurs or the sign will turn off.
13. All billboard replacements as authorized herein shall, in addition to this code, comply with the requirements found in Tennessee Code Annotated (T.C.A.) Title 54, Chapter 21.
14. Owners of digital billboards shall coordinate with the City of Westmoreland to convey real time emergency information such as Amber Alerts or other emergency directives.
15. Any conflicts between the Code and the Statute the more restrictive standard shall apply.

#### **9.070 General Provisions for Permanent On-Premises Signs**

##### **A. Guidance for the Use of Signs**

1. An on-premises sign is for the purpose of conveying information in clear, concise, safe, and compatible units to general motorists and pedestrians on travel ways and within each site.
2. A permanent on-premises sign may be permitted as a freestanding or wall-mounted sign subject to the restrictions imposed by this section and any other applicable regulations in this Ordinance.
3. A single tenant or multi-tenant sign shall be considered an on-premises sign when located within the boundaries of the same approved site plan authorized by this ordinance.
4. A permit is required for all permanent signs unless otherwise exempt under Section 9.040.
5. All electrical service to freestanding signs shall be placed underground. Electrical service to all other signs shall be concealed from public view.
6. No permanent free-standing/monument sign shall be permitted on any property unless a permanent structure of at least 500 square feet exists on the property except for replacement of non-conforming billboards.

7. No on-premises freestanding/monument sign shall be permitted on a parcel or lot if a non-conforming freestanding/monument sign is located on the same parcel/lot.

**D. Setback and Height Requirements**

1. The height of freestanding/ground signs shall be computed as the distance from the base of the sign at grade level to the top of the sign structure. The maximum height for all freestanding/ground signs is eight (8) feet above grade level. The maximum ground clearance between the bottom of the sign and grade level shall be three (3) feet.
2. The leading edge of free-standing/ground signs shall have a minimum setback of five (5) feet from the right-of-way, provided the placement of the sign does not interfere with the sight triangle per Section 8.080. Should the City's General Development and Transportation Plan state a greater right-of-way width than currently exists, the greater right-of-way width shall apply. Said sign setback shall be established based on the projected extent of the right-of-way as determined by the City.
3. Wall-mounted signs shall not extend above the top of the wall or parapet more than twenty-five percent (25%) of the height of such sign, to a maximum of eighteen (18) inches for a solid panel sign, or fifty percent (50%) of the height of the letter for individual mounted letters.

**E. Calculation of Sign Area**

1. Refer to Sections 9.130, 9.140, and 9.150 for guidance on calculating sign areas and specific regulations for Multi-Tenant Development and Out Parcel signs.
2. All signs shall be measured by standard geometric shapes.
3. The combined calculation of all wall-mounted signs shall be less than or equal to the maximum signage permitted per business.
4. Cabinet signs shall not project more than ten (10) inches from the building or structure.
5. Channel Letter signs shall not project more than a total of sixteen (16) inches from the building or structure.
6. Raceway signs shall not project more than a total of sixteen (16) inches from the building or structure.
7. When a freestanding sign has more than one (1) sign face, the area of the sign shall be the area of largest display that is visible from any single direction.
8. Any digital signs shall be limited to no more than fifty percent (50%) of the total permitted sign area as required in Section 9.130. Replacement billboards, with digital display, are permitted per the standards in Section 9.060.

**F. Material and Style**

1. The various parts of a sign shall be compatible.
2. Any multi-faced sign shall have the same name and same message on all used faces.

3. Appropriate Materials: The following materials are considered to be appropriate for sign backgrounds, frames, supports, and ornamentation.
  - a. Brick
  - b. Natural stone, including panels, or imitation stone;
  - c. Stained split-face block;
  - d. Finished wood;
  - e. Exterior insulation and finish systems (EIFS) or similar material in combination with brick, split face block, or stone;
  - f. Metal panels, when used in combination with brick, split-face block, or stone; and
  - g. Plastic, or other synthetic materials, when used in combination with brick, split-face block, or stone.
4. Prohibited Materials The following materials are prohibited for sign backgrounds, frames, supports, and ornamentation:
  - a. Exposed metal poles, when not enclosed by a masonry veneer;
  - b. Smooth-face concrete blocks, whether painted or unpainted;
  - c. Metal panels, when used without brick, split-face block, or stone; and
  - d. Plastic, or other synthetic materials, when used without brick, split face block, or stone.
  - e. Unfinished wood

#### **9.080 Permitted Permanent On-Premises Signs in Residential**

- A. Permanent on-premises freestanding signs and on-premises wall-mounted signs that serve the specific function of identifying a residential development are permitted subject to the following restrictions:
  1. Each residential development containing between three (3) to fifteen (15) dwelling units and approved under one (1) plat or site plan shall be permitted one (1) on-premise freestanding sign per development entry from a public street, up to a maximum of two (2) from a public street, with a maximum size sign face of eighteen (18) square feet each. The following provisions shall apply:
  2. The leading edge or face of the sign or any building or other structure to which the sign is attached must be setback from the right-of-way a minimum of five (5) feet;
  3. No residential freestanding sign shall exceed six (6) feet in height;
  4. All residential freestanding signs may be illuminated by direct and indirect lighting only, but shall not include any digital sign;
  5. Each residential freestanding sign shall be maintained perpetually by the developer, sign owner, owner's association, or some other person who is legally accountable under an approved maintenance agreement. Signs that are not maintained shall be removed by the developer or owner.



**9.090 Permitted On-Premises Signs for Large-Scale Residential and Multi-Family Developments**

- A. Each residential development containing at least sixteen (16) units and approved under one (1) plat or site plan shall be permitted one (1) on-premise freestanding sign per development entry from a public street, up to a maximum of three (3) from a public street, with a maximum size sign face of thirty-two (32) square feet each. The following provisions shall apply: The on-premises signage at each development entry shall be one (1) of the following:
1. A double-sided freestanding sign located perpendicular to the public street and containing up to thirty-two (32) square feet per sign face;
  2. A single-sided freestanding sign located parallel to the public street and containing up to thirty-two (32) square feet for the one (1) sign face.
  3. A flared wall, or similar, to which two (2) single-sided signs are attached or imbedded and each sign does not exceed twenty-four (24) square feet. This includes two (2) one-sided signs located on each side of a subdivision entrance;
  4. The leading edge or face of the sign or any building or other structure to which the sign is attached must be setback from the right-of-way a minimum of five (5) feet;
  5. No residential identification sign shall exceed eight (8) feet in height;
  6. All residential identification signs may be illuminated by direct or indirect lighting only;
  7. Each residential identification sign shall be maintained perpetually by the developer, sign owner, owner's association, or some other person who is legally accountable under an approved maintenance agreement. Signs that are not maintained shall be removed by the developer or owner.
- B. One (1) flat wall-mounted sign with a maximum of thirty-two (32) square feet in area, for each street frontage, may be placed on the street facing facade of a building that contains a minimum of sixteen (16) dwelling units, provided that it is:
1. Illuminated by direct and indirect means only; and
  2. Does not extend/project more than six (6) inches from the facade of the building.

#### **9.100 Permitted Permanent On-Premises Signs for Non-Residential Developments**

- A. Awning Signs: Awning signs shall be displayed on the valance/curtain area of the awning only. Signage shall be non-illuminated; the display surface area (lettering) shall not exceed six (6) square feet; and the height of letters shall not exceed one (1) foot. Such signs shall be limited to identification of the name and/or address of the buildings or establishment contained therein and such awning shall not extend to within two (2) feet of any public vehicular travel way.
- B. Digital Sign: The background of each digital sign must be of a single, constant color. The copy message displayed shall not be changed more than eight (8) times in a twenty-four (24) hour period with a one (1) second change interval except for non-commercial message signs displaying only time and temperature. Any digital signs shall be limited to no more than fifty percent (50%) of the total sign area of a sign. Digital signs shall not be permitted as a wall-mounted sign or window sign except when used as a wall-mounted or monument style (free-standing) menu sign for drive-thru services.
- C. Directional Signs: Non-Residential Signs shall not exceed six (6) square feet in sign face area, two and one-half (2.5) feet in height, and shall have a minimum setback of two (2) feet from the right-of-way. Signs shall not be located in the right-of-way. No portion of a directional sign can be a digital sign.
- D. Freestanding/Ground Sign: The face of any one (1) freestanding/ground sign shall be less than or equal to one (1) square foot per one (1) linear foot of street frontage. One (1) freestanding/ground sign shall be permitted along a public right-of-way for any commercial business whether the development has a single or multiple occupant(s). In no case however, shall more than three (3) freestanding/ground signs be permitted for any development regardless of the number of roadways which front the development. See Subsection 13.07.110 for maximum square footage per zone district. See Section 9.150 for Multi-Tenant Development and Out Parcel Signs.
- E. Menu Boards:
  - 1. Freestanding: Two (2) freestanding menu board signs shall be permitted per drive-thru lane. Each freestanding drive-thru menu board shall be spaced a minimum of ten (10) feet apart, and from other freestanding signs on the property. A single freestanding menu board sign shall not exceed fifty (50) square feet in area including all attached signs. The total aggregate of all freestanding menu board signs in a single drive-thru lane shall not exceed sixty (60) square feet in area. The maximum sign height shall not exceed eight (8) feet. A Menu Board may consist of a digital sign provided that copy may only change 3 times per day.
  - 2. Wall-Mounted: Two (2) wall-mounted menu board signs shall be permitted in a drive-thru lane. The total aggregate of all wall-mounted menu board signs shall not exceed twenty-four (24) square feet.

- F. Suspended Signs: Suspended signs shall be permitted under covered walkways attached to buildings at entrances to businesses. There shall only be one (1) suspended sign per entrance, and the suspended sign may have copy on both sides. A suspended sign shall not exceed two (2) square feet in area, and the bottom edge of a suspended sign shall be no less than seven and a half (7.5) feet above the sidewalk. A suspended sign shall not be illuminated.
- G. Wall-Mounted Signs:
1. Single Business Frontage: Each business with an outside public entrance shall be allowed signage in an amount equal to one (1) square foot per one (1) linear foot of the front width of the business.
  2. Multiple Business Frontages: (As defined in Section 2.020 and 9.020)
    - a. Primary Business Frontage: The business shall be allowed signage in an amount equal to one (1) square foot per one (1) linear foot of the façade of the business that abuts the required front yard as stipulated in Article VI of this zoning ordinance. The entrance door does not have to be in this façade. In no case shall more than the above calculated amount be permitted on the primary business front.
    - b. Secondary Business Frontage: The business shall be allowed signage in an amount equal to twenty-five percent (25%) of one (1) square foot per one (1) linear foot of the width of one (1) secondary business front. The amount of signage allowed for the secondary business frontage may be divided up and used on additional sides of the business except for on the primary business frontage.
- H. Canopy Signs: Whether the canopy is attached or freestanding, canopy signs are considered wall-mounted signage and shall be included in the total calculation of all wall mounted signage permitted for the business.
- I. Multi-Tenant Signs: Shall be allowed signage equal to one (1) square foot per one (1) linear foot of the front width of the business. Each retail use or office use, or multiple retail and office uses sharing a common entrance, shall be allowed to have at least one (1) wall-mounted sign not to exceed thirty (30) square feet. In buildings where multiple businesses or tenants share a common outside public entrance and have individual inside public entrances, one (1) additional wall-mounted sign, not exceeding forty (40) square feet, shall be allowed for building identification.
- J. Window Signs: Exterior window signs shall not cover more than twenty (20%) percent of the window area per facade. Window panels separated by muntins, mullions or piers shall be considered as one continuous window area. Window signs are considered wall mounted signage and shall be included in the total calculation of all wall-mounted signage permitted for business.

### **9.110 Standards Regulating Glare and Sign Illumination**

#### **A. Definitions**

1. Foot Candle: a unit of illumination. Technically, the illumination at all points one (1) foot distance from a uniform point source of one (1) candlepower.
2. Limitation of Glare: In all zone districts, any operation or activity, including signage, producing glare shall be conducted so that direct and indirect light from the source shall not cause illumination in excess of 0.5-foot candles and digital signs shall not exceed 0.3-foot candles and comply with Title 54, Section 54-21-122, Tenn. Code Annotated.

#### **B. Means of Illumination**: If illuminated, signs shall be illuminated only by the following means:

1. A steady, stationary light of reasonable intensity in accordance with Performance Standards, shielded, and directed solely at the sign;
2. Light sources to illuminate signs shall be shielded from all adjacent buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or vehicle drivers or so as to create a nuisance to adjacent residential districts, in accordance with Performance Standards; and
3. Internal illumination, steady, and stationary through translucent materials. This Subsection includes steady, non-flashing neon lighting.

### **9.120 Alternative Sign Plan**

- A. Upon the request of any owner of property to which this Subsection applies, the Planning Commission may approve an alternative signage plan which is not in strict compliance with the requirements of this Subsection, if the Planning Commission finds that such alternative plan meets the purpose and intent of the requirements of this Subsection and the alternative signage plan is clearly equal to or superior to a plan that would be in strict compliance with this Subsection. In making the determination, the Planning Commission may consider the topography, shape, size, or other natural features of the property and the size, location, materials, design, color, and other natural or man-made elements of the proposed signage which could impact the proposal's conformance to these standards.

### **9.130 Freestanding Signs Regulations**

- A. Sign Setback: The minimum setbacks shall be five (5) feet from the leading edge of the sign structure to the right-of-way.
- B. Sign Height:
  1. The maximum height of freestanding/ground signs shall be eight (8) feet from the top of the sign structure to the ground level.

2. The maximum ground clearance for a freestanding sign shall be three (3) feet from the bottom of the sign to ground level.

C. Digital Sign Display Area:

1. Any digital sign shall be limited to no more than 50 percent of the total display surface/sign being a digital sign.

**9.140 Wall Mounted Sign Regulations**

- A. Raceway Sign (Letters mounted on a track mounted to the wall): The maximum total square footage for a wall mounted raceway sign is 100 square feet.
- B. Channel Letters (Individual Letters Mounted Directly to the Wall): The maximum total square footage for a wall mounted channel letter sign is 64 square feet.
- C. Cabinet Sign (Sign Panel within a Frame): The maximum total square footage of a wall mounted cabinet sign is 28 square feet.
- D. Awning Sign (Only permitted on the valance of the awning): The maximum total square footage of an Awning Sign is six (6) square feet. The height of lettering shall not exceed one (1) foot.
- E. Canopy Sign (Attached or Detached): The maximum total square footage for a canopy sign is 10 square feet.

**9.150 Multi-Tenant Development and Out Parcel Sign Regulations**

- A. Number of Signs: A maximum of one (1) multi-tenant is permitted for each access of a development with a maximum of two (2) signs per street frontage and a minimum separation of 350 feet.
- B. Sign Height: The maximum height of a multi-tenant sign is ten (10) feet.
- C. Ground Clearance: The maximum ground clear for a multi-tenant sign is three (3) feet from the grade level (ground) and the bottom of the sign.
- D. Sign Setback: The minimum setback for a multi-tenant sign is ten (10) feet from the right-of-way.
- E. Sign Materials: The building materials of the multi-tenant sign shall match the architectural design of the building.
- F. Sign Face Area: The maximum size per sign face is 120 square feet.

- G. Total Sign Area for Multi-Tenant Signs: The maximum size, in square feet, for all sign faces on all multi-tenant signs associated with a single development is 300 square feet.
- H. Landscaping: The base of any multi-tenant sign shall be fully landscaped with plants and/or shrubbery.
- I. Out Parcel: For an outparcel a single sign is permitted with a maximum height of six (6) feet and a maximum sign face size of 70 square feet.

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## **ARTICLE X SUPPLEMENTAL REGULATIONS**

### **SECTION**

- 10.010 Regulations Applicable to All Zone Districts
- 10.020 Gasoline Service Station Regulations
- 10.030 Animal Hospital, Kennels and Pounds Development Regulations
- 10.040 Home Occupations
- 10.050 Automobile Wrecking, Junk and Salvage Development Standards
- 10.060 Adult-Oriented Establishments Development Standards
- 10.070 Mobile Home Park Development Standards
- 10.080 Multi-Family Dwelling Development Standards
- 10.090 Standards for Telecommunications Towers and Equipment

### **10.010 REGULATIONS APPLICABLE TO ALL DISTRICTS**

#### **A. Permitted Obstructions in Required Yards**

1. In all zoning districts, the following shall not be considered obstructions when located within any required yard, except these items shall also comply with Section 8.080, Site Visibility:
  - a) Accessory Structures as permitted in Section 5.120.
  - b) Arbors or trellises.
  - c) Awnings, covered porches or canopies projecting from a building wall over a required yard not more than six (6) feet and having no supports other than provided by the wall or its integral parts
  - d) Chimneys and bay windows projecting not more than three (3) feet into a required yard.
  - e) Eaves, gutters, or downspouts projecting into or over required yards not more than 24 inches or 20 percent of the width of such yard, whichever is the lesser distance.
  - f) Fences, walls or hedges as permitted in Section 10.010(C).
  - g) Fire escapes or staircases, the riser of which shall be at least 50 percent open, and whose vertical projection downward onto a required yard does not project more than three (3) feet, into, and not exceeding ten (10) percent of the area of the required yard.
  - h) Flag poles having only one structural ground member.
  - i) Freestanding signs as permitted in Section 9.130
  - j) Heating and air conditioning units provided that no such unit shall extend into more than one-half (1/2) the width of the required yard. Where side yards are less than 10 feet in width the units shall be placed in the rear yard.
  - k) Mailboxes.
  - l) Open terraces, fountains, sculptures, or other similar objects of art.
  - m) Retaining walls.
  - n) Sidewalks, driveways, and vehicular parking areas, unless otherwise specifically prohibited by applicable sections of this ordinance.
  - o) Street furniture such as, but not limited to, benches, drinking fountains, trash receptacles, light fixtures, and directional signs.

- p) Uncovered concrete patios, porches and decks projecting not more than 50 percent into a required yard.
- q) No accessory structure or projection shall be placed in a public utility or drainage easement except where such structure or projection can be removed at the property owner's expense to permit maintenance and repair of utility lines.

**B. Exception to Height Regulations**

- 1. The height limitation contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

**C. Fences, Walls, and Hedges**

- 1. Notwithstanding other provisions of this Ordinance, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard as follows:
  - a) Fences, walls, and hedges must comply with Section 8.080, Site Visibility.
  - b) No fence or wall shall be installed so as to block or divert a natural drainage flow on to or off of any other land.
- 2. Appearance— Fences and walls shall comply with the following standards:
  - a) Customary Materials: Fences and walls shall be constructed of materials customarily used and manufactured as common fence or wall materials, including solid wood, brick, masonry, stone, chain link, wrought iron, decorative metal materials, or products designed to resemble these materials. Chain link fencing approved as part of a Site Plan shall be vinyl coated and colored dark green, brown or black. Low voltage invisible fences with buried lines are excluded from this requirement.
  - b) Prohibited Materials: Fences and walls constructed of debris, junk, rolled plastic, sheet metal, plywood, or other waste materials are prohibited in all zone districts, unless such materials have been recycled and reprocessed into building materials marketed to the general public and designed for use as fencing or wall materials. No electrified fence shall be permitted except on Agricultural zoned properties or property used primarily for agricultural purposes and for public institutions.
  - c) Finished Side to Outside: All fences and walls shall be oriented with the “good” or “finished” side facing outward (i.e. one side has visible support framing and the other does not) rather than facing the interior of the lot. This provision may be varied by the Building Inspector in situations where the unfinished side will not be visible to the public or other properties, or where other unusual circumstances exist. This provision shall not preclude the placement of a shadow-box type fence.
  - d) Uniformity of Materials: Fencing and wall segments located along a single lot side shall be of uniform height, material, type, color, and design and shall be uniform for the



entire length of the fence or wall, except where a fence or wall segment transitions from one yard to another or from one height to another.

### 3. Height Requirements

- a) In residential and mixed-use zone districts, fences and walls shall not exceed a height of four (4) feet in a required front yard and six (6) feet in a required side and rear yard. Any fence installed in a front yard shall be of no greater than 50 percent opacity (that is, it shall obscure no more than 50 percent of the view into the land). If a fence is constructed on top of a retaining or other wall or berm, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone, in relation to the grade on the highest side of the wall.
- b) In commercial districts, fences and walls shall not exceed a height of four (4) feet in a required front yard and ten (10) feet in a required side or rear yard. Any fence installed in the front yard of any lot in a commercial district shall be no greater than fifty (50) percent opaque. If a fence is constructed on top of a retaining or other wall or berm, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone, in relation to the grade on the highest side of the wall.
- c) In industrial districts, fences and walls shall not exceed a height of six (6) feet in a required front yard and ten (10) feet in a required side or rear yard. If a fence is constructed on top of a retaining or other wall or berm, the combined height of the fence and wall shall not exceed the maximum height that would apply to a fence or wall alone, in relation to the grade on the highest side of the wall.
- d) The Building Inspector may approve driveway entry features, including, but not limited to, decorative columns and gates, at a height greater than the height specified in Section 10.010(C)(3), listed above.

### 4. Maintenance Required

- a) All fences and walls shall be maintained in good repair and in a safe and attractive condition, including but not limited to replacement of missing, decayed, or broken structural and decorative elements.

## **D. Community Residential House**

- 1. A Community Residential Home as defined in T.C.A. Title 13, Chapter 24, Section 101-104 shall be permitted within all residential zoning districts.

## **E. Moving a Residence from one Foundation to Another Foundation**

- 1. No residence shall be moved from an existing foundation to another foundation, except consistent with the provision of Section 13-3-502, 13-3-503, and 13-3-504, Tennessee Code Annotated, unless:

- a) The residence to be moved is consistent with the age, value, size, and appearance of existing residences within the developed area of residences to which the residence is to be moved; provided, that the value of the house may be greater than that of the existing residences and the size of the house may be larger than that of the existing residences; and
  - i. Approval for the movement of the residence to a foundation within an area of existing residences has been given by:
    - a) The homeowners' association of the development where the residence is to be moved, if a homeowners' association is in existence; or
    - b) A neighborhood association where the residence is to be moved that has been in existence for more than one (1) year prior to the date the residence is to be moved, if a neighborhood association is in existence in the area; or
    - c) The Westmoreland Planning Commission if there is not a homeowner's association or neighborhood association in existence in the area where the residence is to be moved.
- a) The residence to be moved is considered consistent if:
  - i. It is within 10 years of the average age of the existing structures within the developed area;
  - ii. The valuation of the residence to be moved appraised, prior to being moved, at a value that is at least equal to the average appraisal of the existing structures within the developed area; provided, that nothing in this subsection shall be construed to prevent the residence from exceeding the value of the existing structures. In establishing the value of existing structures, the value of modular homes located in the developed area shall not be used in arriving at the average appraisal of the existing structures. If the value of the residence, prior to being moved, appraised at a value that is at least equal to the average appraisal of the existing structures within the developed area, then it shall be presumed that the residence shall appraise at least at the same or greater value once it is moved;
  - iii. It is within 100 square feet of the average size of the existing structures within the developed area. Nothing in this subsection shall be construed to prevent the residence from exceeding the average square footage of the existing structures within the developed area. In establishing the average size of existing structures, the square footage of modular homes shall not be used in making the calculations; and;
  - iv. The appearance of the residence is consistent with the appearance of existing residences within the developed area of residences as determined by the body giving its approval for the residence to be moved to the developed area.

- v. As used in this Section, “area of existing residences” means an area generally referred to as a subdivision as indicated on a plat filed in the Sumner County Register of Deeds Office.
- vi. As used in this section, the terms “single family residence” or “residence” are synonymous with the use classification, Single Family Detached Dwelling, as defined in Article II of this Ordinance, but does not include manufactured homes as defined in T.C.A. § 47-9-102, § 55-1-105, or § 68-4-126-202.
- vii. No residence may be stored on any lot for more than thirty (30) days, without being connected to public utilities including sanitary sewer, water and electric.

**F. Minimum Spacing of Buildings on a Single Zone Lot**

1. In all districts, the minimum distance between any two buildings on any single zone lot shall be as provided in this section, except that these provisions do not apply to space between a building enclosing a principal permitted use and a garage or other unoccupied building accessory thereto.

**G. Minimum Distance Between Buildings**

1. Notwithstanding any other provisions of this Ordinance, two (2) or more buildings may be constructed on a single zone lot if parking spaces and usable open space are and will continue to be available in the same proportion to all occupants of the buildings on the lot. The minimum distance between buildings shall be twenty (20) feet.
2. Self-Storage or Mini warehouses must have a minimum distance of thirty (30) feet between buildings.

**H. Minimum Required Yard Area**

1. Regardless of the orientation of buildings, no less than the minimum yards required by the district regulations in which such development is located shall be maintained along the outer boundaries of the zone lot.

**I. Subdivision of Zone Lot After Development**

1. In all districts, after any portion of a zone lot has been developed under the provisions of this Section VI, such zone lot may be subdivided into smaller zone lots only if each resulting zone lot and building or buildings thereon comply with all the appropriate regulations pertaining to bulk regulations such as yards, open space, and parking and loading requirements of the district in which they are located.

## **J. Special Provisions for Party Walls**

### **1. General Provisions**

Within those districts where a duplex dwelling may be located upon single zone lots, such zone lots may be subdivided by party wall into two (2) separate zone lots for the creation of an attached dwelling. This can occur provided that all site plan information is provided along with a subdivision plat. In no case shall these provisions apply to the development of more than ten (10) coterminous structures. In granting approval of the site plan, the planning commission shall be guided by the following criteria:

- a) Other than the zero-lot line separating the two (2) dwelling units or zone lot, all other lot, yard, and density requirements of the zoning district shall be satisfied.
- b) No zero (0) side yard shall be adjacent to any public or private right-of-way.
- c) No portion of a dwelling or architectural features of a structure shall project over any property line.
- d) Where the same interior property line is utilized for the zero-side yard construction of any dividing structure, such dividing structure shall consist of double walls separated by a minimum air space of two (2) inches, in order to limit undue noise between adjoining dwelling units.
- e) Where the same interior property line is utilized for the construction of any zero--side yard structure, all the provisions of the most recently adopted version of the International Building Code and International Fire Prevention Code shall be met and all such fire walls shall have a rating of not less than two (2) hours duration.
- f) All residential structures must contain a fire wall between the various dwelling units, extending from the footing to the underside of the roof deck, without openings which would permit the spread of fire. Such wall shall not have less than two (2) hours fire rating. The fire wall must be bisected by a line dividing each dwelling so that one-half of the fire wall is on each parcel.
- g) Individual water and sewer services, as well as metering and service maintenance easements, for each zone lot shall be provided.
- h) All the requirements of the Westmoreland Subdivision Regulations shall be met.
- i) All Current requirements of the currently adopted International Fire Prevention Code must be satisfied.

### **2. Special Provisions**

- a) The side yard setback may be zero (0) on any parcel provided that the parcel adjacent to that side yard is held under the same ownership at the time of initial construction.

No zero-side yard shall be adjacent to any public or private right-of-way, nor shall it be adjacent to any parcel of land not being approved for a zero-lot line development.

- b) Appropriate notations verifying these standards shall be placed on the application form for a building permit when a subdivision of land is not involved in the review and approval of any zero-lot line development, or on the applicable subdivision plat whenever any zero lot line developments are involved.
- c) Such notations shall be placed on the plans to be reviewed by the planning commission whenever zero lot line dwellings are involved. Architectural drawings and perspective illustrations may be required to substantiate compliance with the design criteria within this section if required by the appropriate approving person(s), or commission in question.
- d) The minimum lot size required for any such dwelling shall be as stipulated by the development area per dwelling unit as provided in each respective zone district.

#### **K. Architectural Compatibility Standards**

- A. Building Materials Requirement: To create consistent and high-quality design elements through the community in the C-1, C-2, C-3, and MU zone district, any new or substantially expanded buildings shall be constructed with brick, stone, or other masonry materials as the primary material on all exterior building elevations. The brick, stone or other masonry material shall comprise at least 60 percent of each exterior building elevations.
- B. Approved Building Material: Building materials that are considered masonry materials are brick, stone, concrete block, split-face block, pre-cast panels, and cementitious siding.
- C. Exemptions: The masonry materials requirement is not required for single family detached dwelling or duplex dwelling land uses. The masonry materials requirement is required for the multi-family dwelling land use.
- D. Special Exceptions: If a non-residential land use is permitted in a residential zone district as a special exception, the non-residential land use is required to meet the masonry material requirement.
- E. Building Additions/Expansions: If an addition/expansion is proposed for a building that is more than 50 percent larger than the existing building the masonry material requirement must be satisfied. If the building addition/expansion is less than 50 percent of the existing building, the addition/expansion may be constructed of materials that match the existing building materials.
- F. Alternative Plan Approval: A property owner may request approval of an alternative plan which is not in compliance with the masonry material requirement. If the Planning Commission determines the alternative plan meets the intent of the requirements of this section and the plan is superior if the plan was in strict compliance with the masonry

material requirement. The Planning Commission may consider materials, overall design, color and other natural and man-made elements that may impact a projects ability to conform to the standards of this section.

- G. Roof Top Equipment:** All roof mounted electrical transformers, heat and air conditioning equipment and other similar equipment shall be screened from public view from all directions. The screening material should be compatible with the design of the building and integrated into the overall design of the building.

#### **10.020 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 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 IX shall be met.

#### **10.030 DEVELOPMENT STANDARDS FOR ANIMAL HOSPITALS, KENNELS AND POUNDS**

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.

#### **10.040 HOME OCCUPATIONS:**

A Home Occupation may be conducted inside a residential dwelling unit provided it meets the following requirements.

- A. The Home Occupation does not disrupt the peace and quiet within any residential neighborhood where the Home Occupation is located and guarantees to residents' freedom from excessive noise, traffic, nuisance, fire hazard and other possible effects of business activities on adjoining residences within 1,000 feet of said Home Occupation.
- B. Only one (1) person other than family members residing on the premises shall be engaged in such occupation and under no circumstance shall more than three (3) persons be involved in any home occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated, and mounted flat against the wall of the principal building. Currently regulations permit one (1) square foot (12 inches x 12 inches).
- E. No home occupation nor any storage of goods, materials or products connected with such home occupation shall be conducted in any accessory building except as a secondary use of the accessory structure.
- F. There shall be no sales of goods excluding telephone sales via electronic media in connection with such home occupation.
- G. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- H. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.
- I. There shall be no outside storage of equipment, vehicles, or supplies associated with the home occupation.
- J. Only one (1) home occupation per dwelling shall be permitted.

- K. One (1) vehicle with company logo may be parked on the premises as long as it conforms with the prohibition on truck parking in residential neighborhoods.
- L. Day Care, Limited (Any home occupation for a day care shall be restricted to the Day Care Home use.)
- M. Any question(s) regarding staff disapproving a home occupation may be brought before the Board of Zoning Appeals as an Administrative Appeal.

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#### **10.050 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 can create issues of noise, dust, traffic, and may adversely affect property value. The following standards shall be used to ensure this land use is compatible with surrounding land uses by minimizing impacts of a high intensity land use.

- A. All motor vehicles stored or kept on the property shall be so kept so 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. No such operation shall be permitted within three hundred (300) feet from any established residential zone district or any property containing a residential land use.
- C. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveways. The fence, screen, or wall shall be eight (8) to twelve (12) feet in height. Storage between the road/street and the fence, screen or wall is expressly prohibited. Any fence, screen, or wall for concealment shall be maintained in good condition.
- D. Off-Street Parking: As regulated in Article VIII.
- E. 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 have a maximum width of twenty- five (25) feet in width maximum, exclusive of curb returns.
- F. 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 the land use has been approved by the Westmoreland Board of Zoning Appeals. An application for said permit shall be filed in accordance with the requirements of Article XI, Section 11.060, 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 11.090(A).

## **10.060 ADULT-ORIENTED ESTABLISHMENTS DEVELOPMENT STANDARDS**

### **A. 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.”

### **B. 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.

### **C. 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 IX, Sign Regulations.
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 IX, Section 9.030(V).
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.

D. 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 VIII, Section 8.060 Access Control and Article Section 8.030, Off-Street Parking Requirements; Section 8.040, Off-Street Loading and Unloading Requirements.

E. 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.

F. 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.

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

The establishment of these provisions is intended to implement Tennessee Code Annotated 68-126-104 through 68-126-412, by ensuring a minimum standard of site development for mobile home parks were permitted as a special exception 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 zoning 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 the City of Westmoreland. 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 of a site plan, by the Westmoreland Planning Commission, that meets the minimum requirements of a site plan as found in Section 10.040 of this ordinance. Also, when necessary, the approval of a special exceptions by the Westmoreland Board of Zoning Appeals meeting the minimum requirements for a special exception in Section 11.090.

#### **B. Development Standards**

##### **1. General**

- a) A mobile home park shall be permitted as a special exception within the Residential-2 (R-2) and Residential-3 (R-3) zone districts.
- b) No part of the mobile home 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 (i.e. laundry services, etc.).
- c) 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 objectionable smoke, dust, and noise. No portion of the property purposed as a mobile home development shall be located within a FEMA designated Special Flood Hazard Area and must satisfy floodplain development regulations in Article 6.090.
- d) Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.

2. Minimum Development Size

No mobile home park shall be approved on a site that contains less than twice the minimum lot area for the zone district in which the use is to be located or less than 15 mobile home spaces.

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, the following shall be subtracted:
  - i. Any portion of property located within a FEMA designated floodplain or floodway.
  - ii. Ten (10) percent of the remainder of the property 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

- a) Mobile homes shall be so placed 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.
- b) There shall be a minimum distance of ten (10) feet between the nearest edge of any mobile home and an abutting access street.
- c) 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.

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. Also, 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 an on-site septic system approved by the Planning Commission and Tennessee Department of Economic Development.

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

- a) 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 and in accordance with access control standards in Article VIII of this ordinance.

2. Entrance Streets

- a) 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. All access points shall meet the standards found in Article VIII, Section 8.060.

3. Circulation

- a) The street system should provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall have a maximum length of one thousand (1,000) feet and shall provide a cul-de-sac at the terminus of the street.

4. Street Widths

- a) One way with No Parking 12 feet
- b) Two way with No Parking 20 feet
- c) If on-street parking is provided, a width of eight (8) feet is to be provided for each parking lane in addition to the street width required by the Westmoreland Subdivision Regulations.

5. Surfacing Required

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

6. Visibility at Intersections

- a) Visibility at intersections of streets shall be as set forth in Section x.xx, of this Ordinance.

E. Walks

1. General Requirements

- a) 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) 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 five (5) feet.

3. Individual Walks

- a) 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 three (3) 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 ten (10) feet in width, except that a minimum buffer area from any public street shall be no less than fifteen (15) feet.

Within the landscaped buffer, a continuous fence, not to exceed six (6) in height, or a landscaped screen shall be provided. Such fence shall be opaque. If a landscape buffer is chosen instead of the fence, the landscape 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. Additional new plant material shall be added for privacy, shade, beauty of the grounds and to act as a landscape buffer. A landscape 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 or directly adjacent to each mobile home unit. Such parking areas shall be located in close proximity to the dwelling units they are designed to serve. At least two (2) parking space per dwelling unit shall be provided. If located in groups, a maximum walking distance of two hundred (200) feet from the nearest entrance of the dwelling unit should be provided.

J. Non-conforming mobile home parks shall not be permitted to expand unless additional property is obtained by the owner/applicant and is approved by the Board of Zoning Appeals and the expansion is approved as a site plan by the Westmoreland Planning Commission. Any expansion of a non-conforming mobile home park shall comply with all applicable standards in this ordinance. The non-conforming parts of the existing mobile home park shall not be required to be brought into compliance with the ordinance except where modifications are proposed to the existing portions of the non-conforming mobile home park.

## **10.080 MULTI-FAMILY DWELLING DEVELOPMENT STANDARDS**

The special provisions listed in this section are intended to provide design criteria for multi-family dwellings located on a single zone lot. It is the purpose of these provisions to establish design criteria and to provide for implementation of these provisions through Planning Commission review of the site plan review process required for all multi-family developments as required in Section 11.040.

### **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 and the reduction of noise.
- b) Street sidewalks and on-site sidewalks shall be provided for convenient and safe access to all living units from streets, driveways, parking lots and/or garages and for convenient circulation and access to all facilities. All sidewalks shall meet all ADA standards.
- c) The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features. Additional new plant material shall be added for privacy, shade, beauty of the grounds and screening. A landscaping 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 and provide buffering and/or protect 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 Westmoreland Subdivision Regulations.

- i) The density, or number of dwelling units permitted within a given area, shall meet the requirements of the zone district regulations for the property.
  - j) All dwelling units shall be so positioned as to assure the availability of adequate fire protection. The Fire Department shall review the site plan to ensure compliance with the currently adopted fire code.
2. Building Spacing
- a) Minimum Building Spacing
    - i. Space between buildings shall be no less than twenty (20) feet.
  - b) Minimum Distance to the Property Line
    - i. The minimum distance between the building and the property line shall be no less than twenty (20) feet in the Residential-2 (R-2) zone district and no less than ten (10) feet in the Residential-3 (R-3) zone district.
3. Perimeter Requirements
- If severe topography does 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 of adjacent existing uses.
  - b) Structures located on the perimeter of the proposed development must be permanently screened in a manner which is sufficient to protect the privacy of adjacent existing uses. Such landscaping screening should include grass and/or ground cover, evergreen shrubs, and trees.
4. Access
- Each multi-family dwelling shall be located to have direct access to a public street or private street with direct access to a collector street as designated on the currently adopted Major Thoroughfare Plan. All structures shall be so located as to provide safe and convenient access for emergency access by fire, and other public safety vehicles, refuse collection and for required off-street parking.
5. Parking
- a) Space Requirements

Parking spaces shall be provided as required in Article VIII.
  - 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 be located in close proximity to the dwelling units they are designed to serve. At least one (1) parking space, of the two (2) required

parking spaces, per dwelling unit shall be located 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.

- c) Any private drives, parking areas, or other vehicular ways used for common access shall be paved in accordance with requirements in the Westmoreland Subdivision Regulations.

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 thirty-six thousand (36,000) square feet is required for any multi-family development.

## **10.090 STANDARDS FOR TELECOMMUNICATION TOWERS AND EQUIPMENT**

The purpose of this Section of the ordinance is to establish general guidelines for siting of wireless telecommunication towers, antennas, and related equipment housing facilities. The goals are to:

- A. Minimize the total number of towers throughout the City of Westmoreland municipal boundaries by:
  - 1. Strongly encouraging the location of antennas of at least three (3) wireless communications providers per existing or new tower, and by;
  - 2. Strongly encouraging wireless communication providers to initially maximize and to continue to update equipment, to the extent made possible by the then current technical state of art, to ensure the highest possible cell capacity in terms of number of calls handled (or other succeeding capacity measurement);
- B. Protect residential areas and land uses from potential adverse visual and/or safety impacts of towers, antennas and housing facilities;
- C. Encourage users of antennas to locate them, to the extent possible, on existing structures, such as lighting towers, water tanks or buildings, and encourage users of towers and antennas to locate them, to the extent possible, in nonresidential areas where the adverse impact on the community is reduced;
- D. When it is determined by substantial data that no alternate location of a tower is possible other than in a residential area, encourage strongly users to employ alternate tower designs or locations, such as modified clock towers, church spires, flag poles, artificial trees or building modifications;
- E. When a new tower is the only available alternative, require the most visually intrusive and taller towers to be located in the less developed, lower population areas and to require adequate landscaping, both of tower base and equipment. Where higher visual impact towers are unavoidable, such as guyed lattice towers, to locate them in outlying areas of the community;
- F. Encourage users to employ tower types and antenna configurations having the least visual impact on the community, such as monopole designs, and, if using horizontal cross-bar or star-antenna mounts is unavoidable, to blend or shield them into the tower.

#### **10.091 Site Selection Policies:**

In order to accomplish the above goals and to protect and promote the public health, safety and welfare the City of Westmoreland will use the following order of preference in locating wireless communications towers and antennas:

- A. Within any district, sites should be located in the following order of preference:
  - 1. Co-location of antennas on, or replacement of, existing towers and, in the process, adding additional co-locaters to the tower.
  - 2. On existing structures such as buildings, communications towers, water towers, smokestacks, and athletic, street or traffic light standards.
  - 3. Using stealth designs involving mounting antennas within existing buildings or structures in the form of bell towers, clock towers, or other architectural modification of buildings, or other methods to hid antennas.
  - 4. In locations where the existing topography, vegetation, buildings, or other structures provide the greatest amount of screening.

#### **10.092 Definitions and Types of Facilities:**

- A. As used in this ordinance, the following terms shall have the meanings set forth 'below:
  - 1. "Stealth" tower structure: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
  - 2. Antenna: Any apparatus designed for telephone, data, radio, or television communications through the sending and /or receiving of electromagnetic waves.
  - 3. Cell: The area served by one (1) communication tower, estimated by one PCS provider's engineer as presently about the area covered within a two and a half (2 ½) mile radius of the tower; however, as the number of phone users increases, this distance decreases, i.e., cells have to be split with additional towers/antennas.
  - 4. Co-location: The use of a single tower or other support structure and site by more than one wireless communications provider.
  - 5. FAA: The Federal Aviation Administration.
  - 6. FCC: The Federal Communications Commission.

7. Height: When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna or lighting rod.
8. Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, such as guyed lattice or monopole towers.

#### **10.093 Applicability**

- A. New Towers and Antennas: All new towers or antennas in the City of Westmoreland shall be subject to these regulations, except as provided below in Sections 10.030 (c) through (e).
- B. Small Towers: This Ordinance shall not govern any tower, or installation of any antenna, that is less than forty (40) feet in height and is connected to a residence, except for the following requirements:
  1. All towers are subject to safety inspections.
  2. The fall zone of a small tower shall not equal a distance greater than the distance from the base to the property line.
  3. Small towers shall comply with the National Electric Code 810, Section B.
  4. Small towers shall be installed in accordance with the manufacturer's specifications and shall conform to the wind and ice loading specifications of the City of Westmoreland.
  5. No small tower shall be located in the front of the building façade facing any street.
- C. Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance.
- D. AM, FM and Television Transmitting Antennas and Arrays: For the purposes of implementing this Ordinance, an AM, FM, or TV antenna array, consisting of one (1) or more tower units and supporting ground system which functions as one broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the array. Additional towers may be added within the perimeter of the array by right.
- E. Amateur Radio Stations: Amateur radio stations (Hams) licensed under FCC Regulations, Part 97, shall be compliant with FCC 97.15 (a-e) and shall not be subject to the regulations of this Ordinance, other than as listed below:
  1. The normal fall zone of the amateur tower shall not equal a distance greater than the distance from the base of the tower to the property line.
  2. All towers are subject to safety inspections.
  3. Fall zones greater than the distance from the base of the tower to the property line shall require written permission from the affected property owner. This written permission shall

be kept on file by the amateur station operator. The amateur station operator may be required to show this document to the Building Inspector.

4. At no time shall the fall zone of the tower include a structure not owned by the amateur station operator, i.e., a neighbor's house or any other building having human occupancy.
5. Amateur towers shall be in compliance with the National Electric Code 810, Section C.
6. Amateur towers shall be installed in accordance with manufacturer's specifications and shall conform to the wind and ice loading specifications for the City of Westmoreland.
7. No Amateur tower shall be located in front of the building façade facing any street.
8. Amateur towers greater than 100 feet from the base to the highest point of the tower shall require approval. Application must be made to the City of Westmoreland for review and approval by the Westmoreland Planning Commission.

- F. Citizens Band Station: Citizens band stations (CB) shall be governed under Section 10.130 (B) above. CB stations shall be compliant with FCC Regulations Part 95 [For antenna heights see FCC 95.408 (c) (1-2)].

#### **10.094 General Guidelines and Requirements**

- A. Principal or Accessory Use: For purposes of determining compliance with area requirements, antennas and towers may be considered either principal or accessory uses. An existing use or an existing structure on the same lot shall not preclude the installation of antennas or towers on such lot. For purposes of determining whether the installation of a tower or antenna complies with district regulations, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased area within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to the Building Inspector an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the municipal boundaries of the City of Westmoreland including specific information about the location, height, design, existing use and available capacity of each tower.

The City may share such information with other applicants applying for administrative approvals or new tower permits under this ordinance or other organizations seeking to locate antennas or towers within the municipal boundaries of the City of Westmoreland, provided, however, that the City is not, by sharing such information, in any way representing that such sites are available or suitable for tower construction.



C. Aesthetics: Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized (dull gray, not shiny) steel finish or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted a neutral color.
2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower site into the setting and adjacent structures.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure.

D. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning Commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding area.

E. State and Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the Federal Communication Commission (FCC), and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulation, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

F. Building Codes; Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City of Westmoreland concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Measurement: For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City of Westmoreland irrespective of municipal and county jurisdictional boundaries.

- H. Public Notice: For purposes of this ordinance, any special exception request, variance request, or appeal of an administratively approved use or special exception use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 10.190, in addition to any notice otherwise required by the Zoning Ordinance.
- I. Advertising: No advertising of any type may be placed on the tower or accompanying facility unless as part of retrofitting an existing sign structure.
- J. Tower Extension: To permit co-location, the tower shall be designed and constructed to permit extensions to a maximum height of 199 feet were permitted by Section 10.120 of this ordinance.
- K. Tower Safety Design: Towers shall be designed to collapse within the lot lines, and clear of any manned building or structure on or adjacent to the lot, in case of structural failure.
- L. Buildings and Support Equipment: Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 10.140.
- M. Multiple Antenna/Tower Plan: The City of Westmoreland encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

#### **10.095 Exceptions**

The provisions of this part of the Ordinance shall not apply to:

- A. Antennas or towers located on property owned, leased, or otherwise controlled by the City and under 50' in height.
- B. Antennas or towers located on property owned, leased, or otherwise controlled by the City and over 50' in height, and in accordance with Section 10.160(A) and (B).

#### **10.100 Administratively Approved Uses**

- A. General: The following provisions shall govern the issuance of administrative approvals for replacement of existing towers and antennas and adding new antennas to any existing tower, building, or other structure.
  - 1. The Building Inspector may administratively approve the uses listed in this Section.
  - 2. Each applicant for administrative approval shall apply to the Building Inspector providing the information set forth in Section 10.170 if applicable, of this ordinance and pay a non-refundable fee as established by resolution of the Board of Mayor and Aldermen.

3. The Building Inspector shall review the application for administrative approval and determine if the proposed use complies with applicable sections of this ordinance.
  4. The Building Inspector shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Building Inspector fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.
  5. In connection with any such administrative approval, the Building Inspector may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction, provided that the reconstructed tower shall have provisions for mounting the antennas of a minimum of three (3) telecommunications service providers as well as, at the tower base, space and concrete pads for the related accessory buildings.
  6. If an administrative approval is denied, the applicant has the right to appeal to the Board of Zoning Appeals.
- B. List of Administratively Approved Uses. The following uses may be approved by the Building Inspector after conducting an administrative review:
1. Locating antennas on existing structures or towers consistent with the terms of subsections of (a) and (b) below:
    - a) Antennas on Existing Structures: Any antenna which is not attached to a tower may be approved by the Building Inspector as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of four (4) or more dwelling units, provided: (i) The antenna does not add more than twenty (20) feet to the highest point of the structure; and (ii) The antenna complies with all applicable FCC and FAA regulations and does not require additional lighting pursuant to FAA or other applicable requirements; and (iii) The antenna complies with all applicable building codes.
    - b) Antennas on Existing Towers: An antenna which is attached to an existing tower may be approved by the Building Inspector and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas by more than one provider on existing towers shall take precedence over the construction of new towers, provided that such co-location is accomplished in a manner consistent with the following:
      - i. A tower which is modified or reconstructed to accommodate the co-location of one or more additional antennas to provide the required minimum of three (3) locators, shall be of the same tower type as the existing tower, unless the Building Inspector allows reconstruction as a monopole.

ii. Height:

- a) An existing tower may be modified or rebuilt to a taller height, not to exceed twenty (20) feet per additional co-locator, including a lightning rod, for a minimum total of two (2) co-locators, where allowed by the zone district maximum height and tower setbacks.
- b) The height change referred to in subsection (ii) a) may only occur one time per communication tower.
- c) The additional height referred to in subsection (ii) a) shall not require an additional separation. The tower's premodification height shall be used to calculate such distance separations.

iii. Onsite location

- a) A tower which is being rebuilt to accommodate co-location of additional antennas may be moved onsite within fifty (50) feet of its existing location.
  - b) After the tower is rebuilt to accommodate co-location, only one (1) tower may remain on the site.
  - c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section 10.190(B).
  - d) The onsite relocation of a tower which comes within the setback distances to residentially zoned lands is prohibited.
2. Installing a cable micro-cell network through the use of multiple low powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

**10.105 New Tower Placement**

- A. Siting Policy: No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower or structure can accommodate the proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:
- 1. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
  - 2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

3. Existing towers or structures do not have sufficient structural strength/space to support applicant's proposed antenna and related equipment.
  4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding the cost of new tower development are presumed to be unreasonable.
  6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- B. Application Requirements: The applicant for approval to construct a new communications tower must file with the Building Inspector an application accompanied by the following documents, if applicable, and a site plan that shall be approved by the Planning Commission prior to the issuance of a building permit:
1. Specifications One (1) copy of typical specifications for proposed structures and antenna, including description of design characteristics and material.
  2. Site Plan A scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, on-site land uses and zoning, land use classification of the site and all properties within the applicable separation distances set forth in Section 10.190(B), adjacent roadways, proposed means of access, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping and adjacent uses.  
  
The Building Inspector may require other information to be necessary to assess compliance with this ordinance.
  3. Landscape Plan. A landscape plan showing specific landscape material.
  4. Fencing Plan. Method of fencing, and finished color, and, if applicable, the method of camouflage and illumination.
  5. Tower Location Map. A current map showing locations of applicant's antenna, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the city;
  6. Co-Location. The applicant shall provide copies of its co-location policy. Also, the applicant must submit an engineering report certifying that the proposed tower is

compatible for co-location with a minimum of three (3) users. The latter provision may be waived by a governing body in a particular case.

7. Propagation Maps. The applicant shall provide copies of propagation maps demonstrating that antennas and sites for possible co-locator antennas are no higher in elevation than necessary.
8. Antenna Capacity/Wind Load/Ice Load. A report from a structural engineer registered in Tennessee showing that the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards.
9. Separation Distance. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 10.140(B) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of existing tower(s) and owner/operator of the existing tower(s), if known.
10. Antenna Owners. Identification of the owners of all antenna and equipment to be located at the site as of the date of application.
11. Proof of Ownership/Owner Authorization. Legal description of the parent tract and leased parcel (if applicable). Proof of ownership (deed or title documentation) or a letter of authorization for the application from the owner of the real property on which the telecommunications facility is proposed to be located.
12. FAA and FCC Information. All applications for construction of a tower in Westmoreland shall be accompanied by a Determination of No Hazard from the FAA as well as all required FCC permit information.
13. Visual Impact Analysis. Pictures of any potential visual and aesthetic impacts on adjacent residential districts (Pictures taken to North, South, East, and West of site.).
14. Reduction of Visual Impact. The applicant has taken reasonable measures to assure that the proposed communication tower, antenna or accessory structure will be placed in a reasonably available location which will minimize the visual impact on the surrounding area (i.e., adjacent public rights-of-way) in accordance with minimum standards of applicable federal and other regulations. Additionally, the applicant shall describe the proposed methods for minimizing the visibility of the proposed telecommunications facility, including but not limited to all screening, landscaping, cladding materials, and paint color or other treatment samples.
15. Safety Codes. Applicant must show that all applicable health, nuisance, fire, and safety codes are met.
16. Evidence acceptable to the City that the property owner and the telecommunications provider shall remove, at the property owner's and the telecommunications provider's cost and expense, the telecommunications facility and all equipment and restore the property to a condition substantially similar to that existing before the installation

following abandonment of the facility or non-use for a period of six (6) months. Such removal shall not, however, include removal of installed landscaping unless approved by the City. Such evidence may be in the form of an executed agreement between the telecommunications provider and the property owner that is approved by the City Attorney. Such an agreement shall provide that the agreement may not be terminated without the City's written consent and the agreement shall be enforceable by the City against the property owner and the telecommunications provider.

17. Evidence that the telecommunications provider has obtained or secured an irrevocable letter of credit, acceptable to the City Attorney, in an amount of one hundred twenty percent (120%) of the estimated cost and expense of removing the telecommunications facility following abandonment of the facility or non-use of the facility for a period of six (6) months. Any such surety shall authorize the City to obtain the funds secured by the surety upon the City's determination that the telecommunications facility is abandoned or no use of the facility has been made for a period of six (6) months. The amount of such surety shall be based upon an estimate obtained by the telecommunications provider which shall be subject to review and approval of the City. In the event that the City rejects an estimate as inaccurate, incomplete, or incorrect, the City may obtain, at its cost and expense, an estimate which shall be used for purposes of determining the amount of the surety. The telecommunications provider shall take all action necessary to keep such surety valid and in effect at all times. Expiration of a surety may, at the option of the City and following notice to the telecommunications provider, result in the expiration of the City's approval of the telecommunications facility.
18. The applicant telecommunications provider shall provide proof of insurance to insure adjacent property owners and the public against personal and property damage resulting from negligent installation and/or damage caused by or arising from the operation and maintenance of the telecommunications site.
19. The applicant shall notify adjoining property owners by certified letter concerning the project 14 days prior to public hearings before the Planning Commission.
20. A description of the suitability of the use of existing towers, other structures or alternate technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

#### **10.110 Setbacks.**

The following setback requirements shall apply to all towers and antennas, except for alternate design towers that are installed within or on an existing building or structure.

- A. All towers shall be set back from any adjoining lot line by a distance which is equal to one hundred percent (100%) of the height of the tower measured from finished grade from the base to the highest point of the tower, including antenna and/or lightning rod.
- B. The tower shall be set back, from any property zoned or used residentially, a minimum distance of two (2) feet for each one (1) foot of tower height.

- C. Anchor, guys, and accessory facilities shall satisfy the minimum zoning district yard line requirements for primary structures.
- D. Wireless communication towers shall avoid locations, which are immediately adjacent to a public right-of-way. Towers shall be set back from the property line along the right-of-way at least one foot (1') for each one foot (1') of tower height.

### **10.120 Maximum Height and Separation Requirements**

The following maximum height requirements shall apply to all towers and antennas, except alternate design towers when the latter towers are installed within or on a building or structure.

- A. **Maximum Height:** Maximum height shall be measured from finished grade of base to highest point of tower, including antenna and/or lightning rod, and shall not exceed FAA Regulations; alternate design towers are excluded from these height regulations when sited within an existing building or structure and do not increase the height of the applicable building or structure by more than twenty (20) feet.

<b>Zone District</b>	<b>Maximum Tower Height (Feet)</b>
All Residential Zone Districts	50
All Commercial, Mixed-Use, and Industrial Districts	150
All Agricultural Districts	199

- B. **Separation Between Towers:** Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet) shall be as shown in the following table.

<b>Minimum Separation Distances Between Towers by Type (In Feet)</b>				
	<b>Guy Lattice</b>	<b>Un-guyed Monopole (50 feet in height or greater)</b>	<b>Un-guyed Monopole (Less than 50 feet in height)</b>	<b>Alternate Design</b>
Guy Lattice	13,000	6,600	3,300	1,650
Un-guyed Monopole (50 feet in height or greater)	6,600	6,600	3,300	1,650
Un-guyed Monopole (Less than 50 feet in height)	3,300	3,300	3,300	1,650
Alternate Design	1,650	1,650	1,650	1,650



### **10.130 Visual Impact & Screening Policies**

The unique and diverse landscapes of Westmoreland are among its most valuable assets. Protecting these valuable assets will require that location and design of wireless communication facilities be sensitive to the setting in which they are placed. This is especially true in the hilly parts of the Westmoreland where homes may be oriented to capture significant views and where sight distance is greater. Visual concerns should include both those found on and off site. The following policies have been incorporated into the Zoning Ordinance establishing the visual impact and screening criteria applicable to wireless communications facilities.

The following visual policies are applicable to wireless communications facilities:

- A. Wireless communications facilities should be located and designed to minimize any adverse effect they may have on residential property values.
  - 1. Colors and facility designs shall be used which are compatible with surrounding buildings and/or uses in the area or those likely to exist in the area and shall prevent the facility from dominating the surrounding area.
  - 2. Location and design of sites in commercial or industrial zones shall consider the impact of the site on the surrounding neighborhood, particularly the visual impact within the zone district.
  - 3. Security fencing shall be colored or shall be of a design which blends into the character of the existing environment.
  - 4. Freestanding facilities shall be located to avoid a dominant silhouette on top of ridges.
- B. Certain components of a site create a greater impact than other components. For example, the cross bar, star mount or other antenna mounting device and accessory building which may typically be part of a freestanding wireless communications facility or a micro-cell or repeater site, may create a strong visual impact in a residential, rural or hilly environment. A horizontal plane in a vertical setting can be intrusive, so the cross bar or other horizontal mounting device shall be placed below the tree line to adequately mitigate its visual effect or shall be covered with stealth shrouds to provide a smooth transition between the tower and the antenna mount. Wireless communications components shall be afforded maximum screening, using existing vegetation and/or topography to minimize visual impact on the surrounding community.
- C. Facilities shall be architecturally compatible with surrounding buildings and land uses in the zone district or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical.
- D. Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation shall be preserved or improved, and disturbance of the existing topography of the site shall be minimized, unless such disturbance will result in less visual

impact of the site on the surrounding area. The effectiveness of visual mitigation techniques shall be evaluated, taking into consideration the site as built.

- E. At the time of rezoning or application for site plan approval, an evaluation of the visual impact shall be taken into consideration if vegetation is to be removed for wildfire mitigation.
- F. Innovative design shall be used whenever the screening potential of the site is low. For example, by using existing light standards and telephone poles as mounting structures or by constructing screening structures which are compatible with surrounding architecture, the visual impact of the site may be mitigated.
- G. Roof and/or Building Mount Facility: Antennas on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached. Antennas mounted on the side of a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Microwave antennas exceeding 12 inches in diameter on a roof or building mounted facility shall not exceed the height of the structure to which they are attached, unless fully enclosed. If an accessory equipment shelter is present, it must blend with the surrounding building(s) in architectural character or color.
- H. Security Fencing: Towers and equipment shelters shall be enclosed by security fencing not less than six (6) feet in height and also shall be equipped with an appropriate anti-climbing device. Access gate(s) shall be locked at all times when the site is not occupied.
- I. Landscaping: The following requirements shall govern the landscaping surrounding towers and equipment shelters for which a site plan is required; provided, however, that the Planning Commission may waive such requirements, as it deems appropriate.
  - 1. Equipment Shelters: The design of equipment shelters should be compatible with adjacent buildings, and should not encroach into required tower or building setbacks or landscape areas. Mechanical equipment shall not be visible from beyond the boundaries of the site. 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 year-round evergreen screening. Screening, as required herein, shall not be less than four (4) feet in height at the time of planting and shall be permanently maintained.
  - 2. Towers: Trees, landscaping, and other screening devices shall be used to help screen the tower from adjacent residences. Placement of the landscaping or screening devices should be done so as to minimize the view of the tower from residential sites.
  - 3. Existing mature tree growth and natural land forms on the site should be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Planning Commission may determine the natural growth around the property perimeter may be sufficient buffer.

#### **10.140 Building or Other Equipment Storage**

- A. Antennas Mounted on Structures or Rooftops: The equipment cabinet or structure used in association with antennas shall comply with the following:
1. For rooftop or other structure mounting, the cabinet or structure shall not contain more than 100 square feet of gross floor area or be more than 12 feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or 12 feet in height, shall be located on the ground and shall not be located on the roof or the structure.
  2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10 percent of the roof area.
  3. Equipment storage buildings or cabinets shall comply with the currently adopted building codes.
- B. Antennas Mounted on Utility Poles or Light Pole: The equipment cabinet or structure used in association with the antennas shall be located in accordance with the following:
1. In residential districts, the equipment cabinet or structure may be located in a rear yard, provided the cabinet or structure is no greater than 12 feet in height or 100 feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet, a planted height of at least 48 inches and shall be maintained.
  2. In industrial districts, the equipment cabinet or structure shall be no greater than 20 feet in height or 200 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet, a planted height of at least 48 inches, and shall be permanently maintained. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut, or are directly across the street from the structure or cabinet, by a shadow box fence six (6) feet in height, or an evergreen hedge with ultimate height of 12 feet, a planted height of at least 60 inches, and shall be permanently maintained.
- C. Antennas Located on Tower: The related unmanned equipment structure shall not contain more than 100 square feet of gross floor area or be more than 12 feet in height, and shall be located no closer than 40 feet from all lot lines.
- D. Modification of Building Size Requirements: The requirements of Section 10.210 (A) through (C) may be modified by the Building Inspector in case of administratively approved uses or by the Planning Commission in the case of permitted uses to encourage co-location.

#### **10.145 Removal of Abandoned Antennas and Towers**

Any antenna or tower that is not operated for a continuous period of six (6) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of notice from the City of Westmoreland notifying the owner of such equipment removal requirement. Removal includes the removal of the tower, all tower and fence footers, underground cables and support buildings. The site shall be revegetated to blend with the existing surrounding vegetation. The buildings may remain with the owner's approval. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. Failure to remove the tower, and related materials specified in this paragraph, within the ninety (90) day period shall result in forfeiture of the letter of credit required under Section 10.170(B)(17) of this ordinance.

#### **10.150 Non-Conforming Uses**

- A. Not Expansion of Non-Conforming Use: Towers that are constructed, and antennas that are installed, in accordance with the provision of this ordinance shall not be deemed to constitute the expansion of a non-conforming use or structure.
- B. Preexisting Towers: Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction other than routine maintenance on a pre-existing tower shall comply with the provisions of this ordinance.
- C. Rebuilding Damaged or Destroyed Non-conforming Towers or Antennas: Non-conforming towers and antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a zoning permit and without having to meet the separation requirements specified in Section 10.190(B). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed to be abandoned.

#### **10.155 Local Government Access**

Owners of towers shall provide the City co-location opportunities as a community benefit to improve radio communications for City departments and emergency services, provided it does not conflict with co-location requirements of this ordinance.

#### **10.160 Reporting, Reviews & Fees**

- A. Co-location Request Review by Tower Owners. Owners of wireless communication towers within the City of Westmoreland shall review written requests for co-location on the towers within 45 days of receipt and provide a written reply to the requesting provider within two (2) weeks of completion of its review. Reasons for any denial shall be covered fully in the written reply and clearly explained. Failure to comply with this provision may result in revocation of a zoning approval.
- B. Third Party Review. The wireless communications industry uses various methodologies and analysis tools, including geographically based computer software, to determine specific technical parameters of a wireless communications facility, such as expected coverage area, antenna configuration, topographic constraints that affect signal paths, etc. In certain instances, there may be a need for expert review by a third party of the technical data submitted by the wireless communications provider.

The Planning Commission, or the Building Inspector, may require such a technical review, to be paid for by the applicant for the wireless communications facility. Selection of the third-party expert may be by mutual agreement among the applicant and interested parties or at the discretion of the City with a provision for the applicant and interested parties to comment on the proposed expert(s) and review qualifications.

The expert review is intended to be a site-specific review of technical aspects of the wireless communications facility and not a subjective review of the site selection. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the Planning Commission, staff or interested parties. Based on the results of the third-party review, the city may require changes to the application for the wireless communications facility that comply with the recommendations of the expert.

The expert review of technical submission shall address the following:

1. The accuracy and completeness of submissions;
2. The applicability of analysis techniques and methodologies;
3. The validity of conclusions reached; and
4. Any specific technical issues designated by the Planning Commission or the Board of Aldermen.

#### **10.170 Severability**

Per Section 4.050 of this ordinance, the various parts, sections and clauses of this part of the ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

#### **10.180 Repealer**

Any ordinance or parts of other ordinances, in conflict with the provisions of this Ordinance, are hereby repealed to the extent of such conflict.

#### **10.190 Penalties**

In addition to other remedies provided herein, any violation of this Ordinance may be punishable by penalty to the maximum allowed by the Westmoreland. Each day shall constitute a separate violation hereof.

## ARTICLE XI

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

- 11.010 Organization and Purpose
- 11.020 Administration of the Ordinance
- 11.030 Building Permits
- 11.040 Site Plan Required
- 11.050 Zoning Development Plan Required
- 11.060 Temporary Use Permits
- 11.070 Water Flow and Utilities Availability Process
- 11.080 Certificate of Occupancy
- 11.090 Board of Zoning Appeals
- 11.100 Powers of the Board
- 11.110 Administrative Review and Interpretation
- 11.120 Special Exceptions
- 11.125 Specific Standards for Residential Activities
- 11.130 Specific Standards for Community Facility Activities
- 11.135 Specific Standards for Commercial Activities
- 11.140 Specific Standards for Industrial Activities
- 11.150 Variances
- 11.160 Amendments to the Ordinance
- 11.170 Remedies and Enforcement

#### **11.010 ORGANIZATION and PURPOSE**

The administration of this Ordinance is hereby vested in two (2) offices of the government of the City of Westmoreland, Tennessee, as follows:

The Office of the Building Inspector

The Board of Zoning Appeals

It is the purpose of this Article to set out the authority of each of these two (2) offices and then describe the procedures and substantive standards with respect to the following administrative functions:

Issuance of Permits

Issuance of Certificate of Occupancy

Temporary Use and Certificates of Completion

Variances

Special Exception Permits

Amendments

#### **11.020 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.

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

- A. Issue all Building Permits and maintain records of each permit issued.
- B. Issue all Use and Occupancy Permits and maintain records of each permit issued.
- C. Issue and administer all, site sureties and make and maintain all records thereof.
- D. Conduct inspections of use of land to determine compliance with the provisions of this Ordinance.
- E. Maintain permanent and current records of this Ordinance, and subsequent amendments, including, but not limited to, all maps, amendments, special exceptions, variances, appeals, site plans, and applications therefore;
- F. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- G. Receive, file and forward to the Board of Zoning Appeals all applications for variances, special exceptions, and administrative appeals as well as other matters on which the Board is required to act under the provisions of this ordinance.
- H. Conduct inspections as required in this ordinance and such other inspections as are necessary to ensure 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.
- I. Provide information to the public on all matters relating to this Ordinance;
- J. Initiate, direct and review, from time to time, a study of the provisions of this Ordinance, and make reports of his recommendations to the Planning Commission at least annually.

#### **11.030 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 plot 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 detached dwelling or duplex dwelling in single ownership, subsequent to the submittal and approval of the required information as cited in Section 11.030(A), above.

**11.040 SITE PLAN REQUIRED**

- A. All project types, other than those listed in Section 8.030, are required to submit a site plan showing the information as required below, which shall be approved by the Planning Commission prior to the issuance of a zoning or building permit. Prior to submittal of a site plan application, the owner or owner's agent shall first meet with City staff and other department staff, when necessary, in a preapplication conference.
- B. The following project types shall require a site plan and specifications to be submitted for consideration by the Planning Commission, however City Staff may permit these project types to be reviewed and approved by the City Staff.

1. Site improvements, buildings, or building additions that include:

- a. Non-Residential buildings that are 2,500 square feet or less in gross floor area.
- b. Commercial building additions less than 3,000 square feet in gross floor area.
- c. Industrial building additions that do not exceed 5,000 square feet in gross floor area.

2. Change in Use of a Building(s) or Site(s) that:

- a. Does not require building additions or site improvements in excess of the thresholds described in Section 11.040(B)(1).
- b. Are permitted uses in the zone district in which the proposed changes are located.

- C. A site plan must be approved by the Westmoreland Planning Commission, prior to the issuance of a Building Permit for all other proposals for the construction and location of one (1) or more principal structures on any lot which contains the following information.

1. Site Plan Requirements The required site plan shall include the following information:

- a . The actual shape, location, and dimension of the lot;
- b . The shape, size and location of all buildings or other structures to be erected, altered or moved, and any building or other structure already on the lot;
- c . Label zoning for property and surrounding properties and name of owners of adjacent properties;
- d . Legal description and/or survey of the property with location map and most recent deed;
- e . A location map showing the relationship of the proposal drawn to scale, to other development, land uses, and streets;
- f . An engineered scale of not less 1:50 (1-inch equals 50 feet);
- g. The existing and intended use of the lot and of all buildings or other structures upon the lot, including the number of dwelling units the building is intended to accommodate, if applicable;

- h. Topographic feature (contours not greater than five (5) foot intervals) including the topography of at least 50 feet on adjacent lots and any natural drainage systems;
- i. Location of all proposed driveways and entrances as well as existing driveways and entrances on surrounding and adjacent lots, trails/pathways and sidewalk and bicycle facilities;
- j. Location of all off-street parking areas to include a plan showing design and layout of parking facilities to be provided;
- k. Location of all accessory off-street loading berths;
- l. Location of open space(s);
- m. Proposed ground coverage, floor area, and building heights;
- n. Position of fences and wall;
- o. A site lighting plan;
- p. Location, type, and size of proposed sign(s), if applicable;
- q. Proposed means of surface drainage, including drainage calculations and details of the proposed drainage facilities;
- r. Location, size and availability of all existing and proposed utility lines;
- s. Location of all existing and proposed fire hydrants;
- t. Location of all easements and rights-of-way;
- u. Location of areas subject to flooding;
- v. Percolation tests where subsoil sewage disposal is anticipated;
- w. Show required yards, setbacks, and landscaping screening area;
- x. The location of all on site buffering, screening, and landscaping and a tabular listing thereof;
- y. The density of development;
- z. Provide 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);
- aa. Traffic Impact Study when required per Section 8.120.
- bb. Seven (7) copies of the site plan. Applicants shall be required to submit a digital file of the approved site plan.

D. Expiration of Site Plan

- 1. A site plan shall become null and void after a period of one (1) year if no construction activity has been initiated based on the approved site plan. Construction activity does not include grading or excavation.
- 2. The approval of any site plan granted under the provision of this section shall become expired in any situation when a Building Permit has not been officially obtained within one (1) year of the official approval of the site plan [Which is the date the Planning Commission approves the 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, submitted to, and approved by the Planning Commission under all the terms established within this section.

E. Site Surety Required

- 1. An Irrevocable Letter-of-Credit shall be provided when deemed necessary by the Planning Commission, to ensure the completion of all on-site and off-site public improvements as follows:

- (1) All site plans presented for review to the Planning Commission shall present the Commission with a document indicating an intent to file an Irrevocable Letter-of-Credit for improvements shown on and off 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 the Irrevocable Letter-of-Credit by specific type of on and off-site improvements required, such as streets, drainage requirements, lot improvements, 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 as part of the site plan approval.
- (3) The Irrevocable Letter-of-Credit must be payable to the City of Westmoreland.
- (4) The Irrevocable 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 Irrevocable Letter of Credit to facilitate the completion of such improvements.
- (5) Additional requirements for the required Irrevocable Letter-of-Credit that must be satisfied, can be found in Article 3 of the Westmoreland Subdivision Regulations.

#### F. Fee

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

#### G. 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.

#### H. 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.

### 11.050 **ZONING DEVELOPMENT PLAN REQUIRED**

- A. The planning commission, at its discretion, may require the submission and approval of a zoning development plan for any zoning map amendment (rezoning) request if the commission finds the property possesses existing and/or potential flooding, drainage, traffic, topographic or other issues relating to the potential development of the property that could have an adverse effect on the subject property and/or adjacent properties.
- B. Contents of Preliminary Zoning Development Plan
1. The zoning development plan shall be submitted at the same time as an application for a zoning map amendment (rezoning) and contain the following information.
    - a. Location: A location map, of a sufficient scale, to illustrate the property location within the context of the entire municipal boundaries of Westmoreland.
    - b. Property Lines and Adjacent Zoning and Uses:
      - i. The property boundaries with dimensions and approximate location of adjoining property boundaries.
      - ii. Current property zoning and land use of the subject property.
      - iii. Current property zoning and land use of all adjacent property, including across any public or private right-of-way.
      - iv. Provide approximate location of all utilities.
      - v. Any other information required by the Planning Commission in order to make a recommendation to the Board of Mayor and Alderman regarding the zoning map amendment.
    - c. Project Specific Information:
      - i. Topography at five (5) foot intervals.
      - ii. Conceptual locations of streets, drives, access points, parking, loading areas, building sizes and ground coverage.
    - d. Site Data Information:
      - i. Property ownership, Number of proposed lots, dwelling units, density, and any other relevant site information.
    - e. The zoning development plan shall be prepared and signed by a registered engineer, architect or land surveyor, as licensed by state law.

#### **11.060 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 Building Inspector, as provided for in Section 11.030, 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. Until the appropriate fee has been paid in full, no action shall be taken on any application.

#### **11.070 WATER FLOW AND UTILITIES AVAILABILITY PROCESS**

- A. All applications for water and/or sewer service availability shall be submitted at City Hall with the required review fee. The application shall be signed by the property owner.
- B. Each application/request shall be accompanied by information related to proposed use of the property/buildings and projected demand for both water and sewer.
- C. The request for water and/or sewer availability will be forwarded to the Public Works Director and City Engineer for formal review and response.
- D. A developer shall obtain a letter of approval for water and/or sewer availability prior to submitting a site plan to the Planning Commission for consideration.

#### **11.080 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 and all applicable ordinances of the town. 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.

#### **11.090 BOARD OF ZONING APPEALS**

##### **A. Creation of Board of Zoning Appeals**

- 1. In accordance with Section 13-7-205, Tennessee Code Annotated, a Westmoreland Board of Zoning Appeals, consisting of five (5) members, is hereby established. The members of the Board of Zoning Appeals shall all be residents of the City of Westmoreland at the time of their appointment and shall continue to reside within the City corporate limits as long as they serve. At least one (1) of the members of the Board of Zoning Appeals shall be a member of the Planning Commission and at least one (1) of the members shall be a member of the Board of Aldermen.
- 2. All members of the Board of Zoning Appeals shall be appointed by the Mayor within ten (10) days after notification to the Mayor of a vacancy on the Board and confirmed by a majority vote of the Aldermen by resolution.

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

1. 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 representatives on such Board from the Planning Commission and the Board of Aldermen shall serve concurrently with their terms of the Planning Commission and Board of Aldermen.
2. The Board first appointed shall serve respectively for the following terms: one (1) for one (1) year, one (1) for two (2) years, and one (1) for three (3) years.
3. All members of the Board of Zoning Appeals shall serve with such compensation as may be fixed by the Board of Aldermen.
4. Any member may also be removed from membership on the Board of Zoning Appeals for continued absence or just cause.
5. 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.

C. Election of Officers

1. The Board shall elect from its members its own chairman, vice-chairman, and secretary who shall serve for one (1) year and may upon re-election serve succeeding terms.

D. Meetings of the Board

1. 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 Vice-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.

E. Meeting Attendance and Quorum

1. The presence of three (3) members shall constitute a quorum and the concurring vote of a majority of the members of the Board present shall be necessary to deny or grant any application before the Board. Any member who, voluntarily or involuntarily, is absent for three (3) consecutive special and/or regular meetings shall forfeit said position as a member of the Board and be automatically terminated.

F. Conflict of Interest

1. Any members of the Board who shall have a direct or an indirect interest in any property which is the subject matter of or affected by, a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden for revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board for cause.

G. Advisory Opinion by Planning Commission

1. The Westmoreland Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board of Zoning Appeals and such opinion shall be made a part of the record of such public hearing.

#### H. Rules and Proceedings of the Board

1. The Board shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:
2. No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in Westmoreland at least ten (10) days before the date set for a public hearing and written notice of the hearing of an appeal be sent by mail to the appellant and all directly affected property owners at least ten (10) days before the hearing of an appeal. The notice to the appellant shall be sent by registered mail. No appeal shall be considered and heard by the Board unless such appeal shall have been filed at least fifteen (15) days prior to the meeting at which it is to be heard;
3. The Board may call upon any other office or agency of the City Government for information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Board as may be reasonably required;
4. The Westmoreland Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of the record of such public hearing;
5. Any officer, agency, or department of the City of Westmoreland or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided for by state law;
6. In any decision made by the Board on a variance the Board shall:
  - a. Indicate the specific section of this Ordinance under which the variance is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare".
  - b. In cases pertaining to hardship, specifically identify the hardship warranting such action by the Board;

#### I. Stay of Proceedings

1. 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.

#### J. Appeals to the Board

1. 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.

K. Appeal to the Court

1. 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.

L. Liability of Board Members, Zoning Administrator, and Employees

1. Any Board member, Building Inspector, or other employee charged with the enforcement of this Ordinance, acting for the City of Westmoreland in the discharge of their duties, shall not thereby render themselves liable personally, and are hereby relieved from all personal liability and shall be held harmless by the City of Westmoreland of any damage that may accrue to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any Board member, Building Inspector or employee charged with the enforcement of any provision of this Ordinance shall be defended by legal representative furnished by the City of Westmoreland until the final termination of such proceedings.

M. Right to Entry Upon Land

1. The Board, its members, and City employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance.

**11.100 POWERS OF THE BOARD**

A. 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 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.



## **11.110 ADMINISTRATIVE REVIEW AND INTERPRETATION**

- A. The Board of Zoning Appeals shall interpret the Official Zoning Code and Zoning Map and pass upon disputed questions of lot lines or district boundary lines or similar questions as they arise in the administration of this Official Zoning Code.
- B. The Board of Zoning Appeals shall also 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 or any other administrative official in carrying out or enforcing any provision of this Official Zoning Code, or in their interpretation of the Official Zoning Map.
- C. 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. In exercising its powers, the Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.
- E. Procedure For Review of Administrative Appeals
  - 1. Application: An application shall be filed with the Board of Zoning Appeals for review. No more than 60 days after the filing of the application a hearing shall be held on the application, unless otherwise withdrawn or postponed by written request by the owner/applicant. The application shall contain the information required by Section 11.030.
  - 2. Public Hearing and Notice Required: A public hearing for the purpose of soliciting public comments concerning the application shall be held and public notice shall be given in advance of said hearing. Notice of the public hearing shall be published once in a newspaper of general circulation prior to the hearing and due public notice shall be given to the parties in interest.
  - 3. At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

## **11.120 SPECIAL EXCEPTIONS**

The following procedure is established to provide procedures for review of a special exception request 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. No more than 60 days after the filing of the application a hearing shall be held on the application, unless otherwise withdrawn or postponed by written request by the owner/applicant. The application shall contain the information required by Section 11.040.

B. General 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 found in the following regulations. A special exception shall be granted provided the Board finds it meets the following general requirements as well as any specific requirements found in the following sections of this Ordinance.

1. Is so designed, located, and proposed to be operated so that the public health, safety and welfare will be protected;
2. Will not adversely affect other property in the area in which it is located;
3. Is within the provisions of Special Exceptions as set forth in this Ordinance; and conforms to all applicable provisions of this Ordinance for the zone district in which it is to be located and is necessary for public convenience in that location.
4. Ingress and egress to property and proposed structures with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
5. Off-street parking and loading areas, where required, 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.
6. Utilities, with reference to locations, availability, and compatibility.

- C. Any decision made by the Board on a special exception shall indicate the specific section of this Ordinance under which the use is being considered and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare", and shall state clearly the specific conditions imposed in granting such special exception.

D. Restrictions

In the exercise of its review and 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.

E. 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.

F. 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.

11.125 Specific Standards for Residential Activities

In addition to the requirements of the applicable zone district of a specific property and the general requirements for a special exception as stated in Section 11.090(B), a special exception may be granted for Residential Activities specified in 11.095 when the specific standards established are met as part of the condition of issuing the permit in the applicable zone districts.

A. Special Conditions for Multi-Family Dwellings

1. In addition to the general criteria in 11.090(B), all Multi-Family Developments shall satisfy all development standards found in Section 10.080 of this ordinance.
2. In addition to the standards contained in this Ordinance, for multi-family developments, the Board of Zoning Appeals shall specifically find that there will be no adverse impact upon adjoining properties or the neighborhood in which such use is proposed. In making this finding, the Board shall consider the effect upon traffic congestion, overcrowding of schools, availability of necessary public utilities, and suitability of the site for the use, and such other factors as the Board may deem necessary.

B. Special Conditions for Upper Story Residential

1. All upper story residential development proposals shall require a certified statement demonstrating a firm agreement for parking reserved exclusively for the use of the upper story residential development.
2. All upper story residential development proposals shall be in compliance with all currently adopted Building, Utility, and Housing Codes within the City of Westmoreland.

C. Special Conditions for Mobile Home Parks

1. In addition to the general criteria in 11.090(B), all Mobile Home Developments shall satisfy all development standards found in Section 10.070 of this ordinance.
2. In addition to the standards contained in this Ordinance, for multi-family developments, the Board of Zoning Appeals shall specifically find that there will be no adverse impact upon adjoining properties or the neighborhood in which such use is proposed. In making this finding, the Board shall consider the effect upon traffic congestion, overcrowding of schools, availability of necessary public utilities, and suitability of the site for the use, and such other factors as the Board may deem necessary.

11.130 Specific Standards for Community Facility Activities

In addition to the requirements of the applicable zone district of a specific property and the general requirements for a special exception as stated in Section 11.090(B), a special exception may be granted for Community Facility Activities specified in 11.100 when the specific standards established are met as part of the condition of issuing the permit in the applicable zone districts.

A. Special Conditions for Community Assembly

1. No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the districts; provided, however, that if such community assembly includes outdoor activities the minimum lot area shall be four (4) acres.
2. All bulk regulations of the zone district shall apply.
3. The required number of off-street parking spaces shall be determined by the Building Inspector or their designee, taking into account the traffic generation of such facility, the hours of operation and other such factors that may affect the need for off-street parking.
4. Except for temporary non-profit festivals, fencing, screening and landscaping shall be provided as appropriate for such facility, except that no landscaped screen shall be located closer than 15 feet of any vehicular entrance or exit to the property.
5. The location and operation of such community assembly facility shall be in keeping with the character of the surrounding area and shall not adversely affect the properties within the surrounding area.
6. All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Department of Water and Sewerage Services.

B. Special Conditions for Community Education

1. No such facilities shall be permitted on a zone lot unless such lot contains the acreage recommended for such facilities by the appropriate state agency.
2. The traffic generated by such facility shall be safely accommodated along the streets which will provide access to the site.
3. The location and design of such facilities shall not have an adverse effect upon surrounding properties.
4. The off-street parking requirements of this Ordinance in Article VIII shall apply.

C. Special Conditions for Place of Worship

1. No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district except those facilities proposed in Agricultural/Residential District (AG) where the minimum lot size shall apply.
2. The location, size, and design of such facilities shall be situated so that the proposed facility shall be compatible with the development within the surrounding area thus reducing the impact upon such area.
3. Such facilities shall be located only on a Primary or Secondary Roadway as shown on the currently adopted Major Thoroughfare Plan.
4. All bulk regulations of the district shall be met.
5. The off-street parking requirements of this Ordinance in Article VIII shall apply and be satisfied.

#### 11.135 Specific Standards for Commercial Activities

In addition to the requirements of the applicable zone district of a specific property and the general requirements for a special exception as stated in Section 11.090(B), a special exception may be granted for Commercial Activities specified in 11.105 when the specific standards established are met as part of the condition of issuing the permit in the applicable zone districts.

##### A. Special Conditions for Transient Habitation

1. Transient Habitation uses shall be constructed on a building scale similar in nature to buildings in the immediate vicinity within the same or adjacent zoning districts.
2. For each additional floor of building height an additional ten (10) feet of bufferyard width in any side or rear yard shall be required.
3. Any transient habitation use adjacent to a low density or medium density residential use or a low density or medium density residential zoning district shall provide a bufferyard of twice the width of the required bufferyard between such uses or districts.
4. Driveways for transient habitation uses shall not be located adjacent to or across the street from properties in residential zoning districts.
5. Transient Habitation uses shall be located adjacent to other commercial uses and not solely adjacent to residential uses.

##### B. Special Conditions for Convenience Sales and Service

1. 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.
2. Gasoline pumps shall not be located closer than fifteen (15) feet to any street right-of-way line.
3. Sign requirements as established in Article IX, shall be met.

##### C. Special Conditions for Travel Trailer Park and Campground

1. The area of a lot, parcel or tract of land to be used must contain at least 10 acres and must have a frontage of at least 100 feet abutting a public roadway classified as a primary roadway on the currently adopted Major Throughfare Plan.

The Board is authorized to waive the requirement for a minimum frontage if it finds that the facilities for ingress and egress of vehicular traffic are adequate to meet the requirements for safe and efficient movement of traffic.

2. Any campsite must be located at least 50 feet from any boundary or property line of such lot, parcel or tract of land, or a distance of at least 100 feet from the centerline of any public right-of-way.
3. The density of campsites in a campground must not exceed an average of 15 campsites per acre of the developed portion of the campground, inclusive of service roads, toilet facilities and service buildings.
4. Each campsite, excluding parking space, must provide a minimum of 900 square feet.
5. Shall provide one (1) parking space that will not interfere with the convenient and safe movement of traffic, or equivalent parking must be provided in a central area.

6. The Board of Zoning Appeals may require special conditions, such as provision for fencing and/or planting or other landscaping, additional setback from property lines, and other reasonable requirements deemed necessary to safeguard community interest and welfare.

#### 11.140 Specific Standards for Industrial Activities

In addition to the requirements of the applicable zone district of a specific property and the general requirements for a special exception as stated in Section 11.090(B), a special exception may be granted for Industrial Activities specified in 11.110 when the specific standards established are met as part of the condition of issuing the permit in the applicable zone districts.

##### A. Special Conditions for Automotive Wrecking, Junk and Salvage Yards

1. In addition to the general criteria in 11.090(B), all Automotive Wrecking, Junk and Salvage establishment shall satisfy all development standards found in Section 10.050 of this ordinance.
2. In addition to the standards contained in this Ordinance, for automotive wrecking, junk and salvage establishments, the Board of Zoning Appeals shall specifically find that there will be no adverse impact upon adjoining properties adjacent to the proposed use. In making this finding, the Board shall consider the effect upon traffic congestion, availability of necessary public utilities, and suitability of the site for the use, and such other factors as the Board may deem necessary.

#### 11.150 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 their land. The variance shall be used only where necessary to overcome some physical element or obstacle on a property which is preventing an owner from using their property under this ordinance.

##### A. Application

A property owner or their designated agent may make application for a variance, using any form which might be made available by the Board of Zoning Appeals. No more than 60 days after the filing of the application a hearing shall be held on the application, unless otherwise withdrawn or postponed by written request by the owner/applicant.

##### B. 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 their 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.

- C. The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

1. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance were carried out must be stated; and

2. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district; and
3. The variance will not authorize activities in a zone district other than those permitted by this Ordinance; and
4. Financial returns or a loss of value only shall not be considered as a basis for granting a variance; and
5. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance; and
6. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same districts; and
7. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
8. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and I. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area; and
9. The granting of a variance will not cause substantial detriment to the public good and will not substantially impact the intent and purpose of the City's zoning plan and zoning ordinance.

D. Non-Conformity Does Not Constitute Grounds for Granting a Variance:

1. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

E. Prohibition of Use Variances:

1. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

F. Conditions and Restrictions by the Board:

1. The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in Section 11.140(C) to reduce or minimize the injurious effect to such variation upon surrounding property and better carry out the general intent of this Ordinance. The Board may establish expiration dates as a condition or as a part of the variances.

G. Variance Appeals:

1. Any person including any agency of the city government aggrieved by a decision of the Board on a variance may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this Article shall be final and subject to review only for illegality or want of jurisdiction.

**11.160 AMENDMENTS TO THE ORDINANCE**

A. General:

1. The Mayor and Board of Aldermen may, from time to time, amend, supplement, change or repeal the regulations and boundaries set forth in this Ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original Zoning Ordinance or whenever the public necessity, convenience, and general welfare require such amendment.
2. 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 to the Mayor and Board of Aldermen for final review and vote.
3. The Westmoreland Municipal Planning Commission may provide a favorable recommendation or unfavorable recommendation to the Mayor and Board of Aldermen. If an unfavorable recommendation is provided by the Planning Commission, a simple majority vote of the Mayor and Board of Aldermen is required for the amendment to be approved.

B. Initiation of Amendment:

1. Amendments may be initiated by the Mayor and Aldermen, the Planning Commission or by an application of one (1) or more owners of property affected by the proposed amendment.

C. Application for Amendment to the Zoning Ordinance:

1. An application for an amendment shall be accompanied by a fee which shall be set by the Mayor and Aldermen. The fee shall be payable to the City of Westmoreland, and shall also be accompanied by maps, drawings, proposed land uses and any other data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area and that public necessity, convenience, and general welfare, require the adoption of the proposed amendment.
2. The Planning Commission shall review and make recommendations to the Mayor and Aldermen on all proposed amendments to this Ordinance.
3. The Planning Commission shall have thirty (30) days within which to submit its report and recommendation to the Board of Mayor and Aldermen. If the Planning Commission does not recommend 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 provided a favorable recommendation for the proposed amendment.



4. No change(s) from the text and/or map(s) the Planning Commission has provided a recommendation on shall be made, unless such change(s) are first resubmitted to the Planning Commission for review and a new recommendation to be provided for the Board of Aldermen.

D. Public Hearing:

1. Before enacting amendment to this ordinance, the Board of Aldermen shall hold a public hearing thereon, at least fifteen (15) days' notice, but no more than thirty (30) days prior to the public hearing. The time and place of the public hearing shall be published in a newspaper of general circulation in the Town of Westmoreland. This notice shall specify the location and time of the meeting, as well as the current and proposed zoning classification(s) and may contain a graphic illustration of the area.

E. Amendments to the Official Zoning Map:

1. Upon the effective date of an Ordinance approving an amendment to the zoning map, which is part of this Ordinance, the Building Inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.
2. Upon platting of new roadway rights-of-way or dedication of new roadway rights-of-way, zoning previously established on real property constituting the newly platted right-of-way shall be relinquished from the previously established zoning designation.
3. Should a right-of-way be abandoned then such rights-of-way shall be assigned the zoning classification of the adjacent property. Should zoning on each side of the vacated right-of-way be of different classification districts then one-half (1/2) the width of the previous right-of-way shall be assigned the zoning classification adjacent to the previous right-of-way.

F. Effect of Denial of Application:

1. Whenever an application for an amendment to the text of this Ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial, except in the following cases:
  - i. Upon initiation by the Mayor and Aldermen, or Planning Commission;
  - ii. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made.

## **11.170 REMEDIES AND ENFORCEMENT**

A. Penalties for Violations

1. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punished as provided for by law, and a fine of up to fifty dollars (\$50.00) may be levied. Each day such violation exists shall be deemed a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or

maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

B. Remedies

1. In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building or other structure or land is or is proposed to be used in violation of this Ordinance, the Building Inspector or other appropriate authority of the city government or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion or use, to correct or abate such violation, or to prevent the occupancy of such building or other structure or land.
2. Where a violation of these regulations exists with respect to a building or other structure or land, the Building Inspector may, in addition to other remedies, notify all public utilities and municipal service departments of such violation and request that initial or re-establishment of service be withheld there from until such time as the building or other structure or premises are no longer in violation of these regulations, and each such utility or department shall comply with such request.