

Zoning Ordinance

Westmoreland, Kansas

Passed by the City Council of Westmoreland, Kansas, on
September 13, 2007

Amended by the City Council of Westmoreland, Kansas, on January 7, 2021

Zoning Ordinance
Westmoreland, Kansas

Table of Contents

<u>Article</u>		<u>Page</u>
Article I	Title	3
Article II	Purpose	3
Article III	Interpretation, Scope and Jurisdiction	3
Article IV	Definitions	3
Article V	Districts and Boundaries	9
Article VI	Residential District (R District)	11
Article VII	Commercial District (C District)	13
Article VIII	Manufacturing District (M District)	14
Article IX	Manufactured and Mobile Home District (MMH District)	15
Article X	Adult Bookstore, Novelty Store, or Adult Video Store	17
Article XI	Non-Conforming Buildings and Use	17
Article XII	Administration of Ordinance	18
Article XIII	Conditional Use	23
Article XIV	Annexation of Land to the City	24
Article XV	Fees	24
Article XVI	Amendment	24
Article XVII	Violations and Penalties	26
Article XVIII	Validity	26
Article XIX	Repeal of Prior Ordinances or Parts Thereof in Conflict	26
Article XX	Effective Date	26

ORDINANCE 489

A COMPREHENSIVE ORDINANCE REGULATING AND RESTRICTING THE USE OF LAND AND THE USE AND LOCATION OF BUILDINGS AND STRUCTURES, DIVIDING THE CITY OF WESTMORELAND, KANSAS, INTO ZONING DISTRICTS FOR SUCH PURPOSES; PROVIDING A MAP OF SAID CITY SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH ZONING DISTRICTS; DEFINING CERTAIN TERMS USED IN SAID ORDINANCE; ESTABLISHING A BOARD OF ZONING APPEALS; PROVIDING FOR CHANGES AND AMENDMENTS TO SAID ORDINANCE; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

BE IT ORDAINED by the Governing Body of the City of Westmoreland, Kansas:

Article I. Title

Section 1. This Ordinance shall be known and may be cited as the Zoning Ordinance for the City of Westmoreland, Kansas and shall repeal Ordinance 173, Ordinance 329, Ordinance 350, Ordinance 382, Ordinance 384, Ordinance 392, and Ordinance 403, and Ordinance 534 of the City of Westmoreland, Kansas, and any ordinances, or parts thereof, in conflict with the provisions contained herein.

Article II. Purpose

Section 1. The purpose of this Ordinance, and the Zoning Regulations contained herein, is to encourage the appropriate use of land; to conserve and stabilize the value of property; to provide adequate open space for light and air; to give an orderly growth to the City; and in general to promote public health, safety, and general welfare.

Article III. Interpretation, Scope and Jurisdiction

Section 1. In the interpretation and application of this Ordinance, the provisions of this Ordinance shall be held to the minimum requirements adopted for the promotion of the public health, safety, and welfare. Where this Ordinance imposes a greater restriction upon land, Buildings, or structures than is imposed or required by existing provisions of law, ordinance, contract or deed, or resolution the provisions of this Ordinance shall govern.

Article IV. Definitions

When used in this Ordinance, the following terms shall have the meaning ascribed to them in this Article IV Definitions:

Accessory Use Building. A structure, the use of which is customarily incidental or subordinate to the principal use of Buildings or land and located on the same parcel of land or lot as the principal use Building. Accessory Use Buildings shall include by way of example, but not by way of limitation, a shelter for domestic animals, attached or detached garage, shops and carports. An Accessory Use Building greater than 150 square feet in size shall be attached to a Footing; an Accessory Use Building 150 square feet or less must be securely anchored by using anchoring tie downs or other anchor devices or construction methods to prevent overturning in high winds.

Adult Bookstore, Novelty Store, or Adult Video Store. Means a commercial establishment which, as one of its principal purposes, offers for sale, for any form of consideration, any one of more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or, 2) instruments, devices, or paraphernalia that are designed for use in conjunction with specified sexual activities.

Alteration. Alteration, also expressed as “Alter” or “Altered”, when applied to a Building means any construction which increases or decreases the dimensions of any portion of the Building.

Animal Sanctuary. An Animal Sanctuary is a Building or land which is used in any manner for the care of stray, lost, abandoned, unwanted, sick or discarded wild or domesticated animals.

Bed and Breakfast. An owner-occupied residential Dwelling Unit where lodging, with or without means, is provided on a short-term basis for compensation.

Board of Zoning Appeals. The Board of Zoning Appeals, also from time to time referred to or designated as the BZA, is an administrative board appointed by the Governing Body of the City with the powers and duties provided for in Article XII Administration of Ordinance.

Building. Any covered structure built for support, shelter, or enclosure of people, animals, chattels or movable property of any kind. A Building may be used for residential, commercial, manufacturing, educational or recreational purposes, or any use permitted in the various Zoning Districts provided under the terms of this Ordinance.

Building Permit. A document obtained for building construction from the Zoning Administrator when construction, extension, or modification of a Building, Accessory Use Building, or Fence is undertaken.

Carports. A carport is a covered accessory structure to a one or two family dwelling unit. It may be freestanding or attached to another structure. A carport cannot exceed 1,000 square feet in area or one story in height and must be entirely open on two or more sides except for structural supports. There can be no enclosed use above a carport. Any structure which does not meet the above definition must comply with all regulations relating to an accessory use building. Shall be constructed of residential design with wood, metal, brick, stone or other masonry material intended for exterior of the structure. A carport must be anchored to a concrete slab, pier (one pier for every vertical structural support), or footing with a standard approved post base/anchor system approved by the manufacturer. A carport shall be permitted in all zoning districts and must conform to the setbacks in which it will be located.

Child Day Care (Less than 24 hours per day), including Licensed Day Care Home. [Kansas Administrative Regulation, K.A.R. 28-4-114(e)(1)et seq.] “Licensed Day Care Home” means a home in which care is provided for a maximum of ten (10) children under 16 years of age with limited number of children under kindergarten age. This total includes children under eleven (11) years of age related to the provided.

Group Day Care Home. [K.A.R. 28-4-113) et seq.] “Group Day Care Home” means the premises in which care is provided for a maximum of twelve (12) children under 16 years of age with a limited number of children under five years of age.

Child Care Centers/Preschools. (K.A.R. 28-4-420 et seq.) “Child Care Center” means a facility in which provides care and educational activities for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care or which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and Building meet Child Care Center regulations.

“Preschool” means a facility which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten as prescribed in K.S.A. §72-1107 (c) and any amendments thereto, and who are 30 months of age or older; which conducts sessions not exceeding three hours per session; which does not enroll any child more than one session per day; and which does not serve a meal. The term “Preschool” shall include educational Preschools, Montessori schools, nursery schools, Church-sponsored Preschools, and cooperatives. A facility may have fewer than 13 children and be licensed as a Preschool if the program and facility meet Preschool regulations.

Church. A Church is a Building where people regularly gather to participate in or hold religious services, such Building having been specifically constructed or adapted to provide a place of worship.

City. The City of Westmoreland, Kansas.

Clinics. Clinics are establishments where patients are not lodged overnight but receive services from doctors or dentists licensed to practice the healing arts in Kansas. Clinics, as used in this definition, is not meant to include veterinary services.

Conditional Use. A use stated in this Ordinance which may be permitted by the Planning Commission in accordance with this Ordinance.

District. Means a Zoning District.

Dwelling Unit. K.S.A. §58-2543(c) A structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

Dwelling Unit, One-Family. A Building designed to be occupied by one Family or one individual.

Dwelling Unit, Two-Family. A Building designed to be occupied by two Families or individuals living independently of each other.

Dwelling Unit, Multiple-Family. A Building designed to be occupied by three (3) or more Families or individuals living independently of each other.

Family. Family means two or more individuals living together on a permanent or temporary basis. It is not required that such individuals be related to each other or married.

Family Foster Home. K.S.A. §38-134 a private home in which care is given for 24 hours a day for children away from their parent or guardian and which is licensed under K.A.R. 28-4-311 et seq.

Footing. A base in the ground that will support a structure of greater than 150 square feet, composed of poured concrete with tied rebar to strengthen the footing. Footing shall be a minimum of two inches wider than the bottom of the foundation wall or pier it supports. Footings should be dug to a minimum of two feet deep for structures of greater than 150 square feet. Structures of 150 square feet or less shall not require a footing, but shall require tie downs.

Footprint. The existing or previously existing outline of a structure's foundation, including the structure's setback distances.

Governing Body. The City Council of the City of Westmoreland, Kansas.

Greenhouse. An enclosed Building used for cultivating plants that require controlled temperature and humidity.

Home Occupation. A Home Occupation is any business or profession carried on by an individual or individuals occupying a Dwelling Unit, Manufactured Home or Mobile Home as a residence and which: (1) Does not include as an employee more than one individual who resides at a place other than the Dwelling Unit, Manufactured Home or Mobile Home, (2) Does not include signs advertising the occupation other than one sign on the Dwelling Unit, Manufactured Home or Mobile Home giving the business name which is no larger than four square feet, and (3) Does not generate noise, traffic, parking, sewage or water use in excess of what is normal in a residential neighborhood.

Junk and/or Salvage Yard. Any lot or area where waste, recycled or scrap material is bought, sold, stored, baled, exchanged, disassembled, or otherwise handled or kept in any manner including but not limited to scrap iron, paper, rags, rubber tires, machinery, scraps, bottles, glass and/or inoperative motor vehicles.

Kennel. A Kennel is any place, licensed or unlicensed, where four (4) or more dogs one year old or older are kept, boarded or trained for commercial gain or as pets. A Kennel shall not include an Animal Sanctuary.

Manufactured Home. (K.S.A. §58-4202 and §12-742) A factory-built residential structure which is (1) non-motorized and transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more 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 Unit, with or without a Permanent Foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein, (2) subject to the Federal Manufactured Home Construction and Safety Standards Act of 1974 established pursuant to Title 42 U.S. Code 5403 and was produced after June 15, 1976, but which does not meet all specifications and requirements of a Manufactured Home (of) Residential-Design. A Manufactured Home shall not be altered in an attempt to create a Manufactured Home of Residential Design. Manufactured Home does not include a Mobile Home but, under this Ordinance, shall be permitted only in a Manufactured and Mobile Home District.

Manufactured Home of Residential Design. (K.S.A. §12-742 and UDC Section 2.103 x Manufactured Home) A factory-built Dwelling Unit on a Permanent Foundation which has (1) minimum dimensions of 22 body feet in width, (2) a pitched roof, and (3) siding and roofing materials which are customarily used on site-built homes. K.S.A. §12-763 prohibits exclusion of Manufactured Homes of Residential Design from Single-Family residential Districts solely because they are factory-built homes.

Manufactured Home or Mobile Home Skirting. Skirting means the enclosing of the area between a Manufactured Home or Mobile Home and the ground with a material specifically designed by the manufacturer, or a custom or commercial kit designed for this purpose, so as to obscure from view the permanent chassis of the Manufactured Home or Mobile Home.

Manufactured and Mobile Home Park. A planned area which rents Space and/or facilities for the accommodation or location of Manufactured Homes or Mobile Homes on a temporary or permanent basis.

Mobile Home. (K.S.A. §58-4202) A structure which is not subject to the federal act and which is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and 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.

Modular Home. (K.S.A. §58-4202) A structure transportable in one or more sections, (2) designed to be used as a Dwelling on a Permanent Foundation, when connected to the required

utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; and (3) certified by its manufacturer as being constructed in accordance with a nationally recognized building code.

Non-Conforming Building or Use. One that does not, by reason of design or use, conform to the Zoning Regulations of the Zoning District in which it is located.

Permanent Foundation. A foundation of formed and poured-in-place concrete or masonry units laid up with such reinforcing materials as may be required for quality construction.

Permitted Use. A rightful use established under this Ordinance which cannot be denied nor refused within a Zoning District where such use is established.

Planning Commission. The Planning Commission is an advisory board appointed by the Governing Body of the City charged with the planning and regulation of development within the City in accordance with the requirements herein and in conformance with the provisions of the Kansas Statutes.

Person. A Person shall mean every natural Person, firm, partnership, association, social or fraternal organization, corporation, trust, receiver, estate, syndicate, branch of government, or any group or combination of Persons acting as a unit.

Sidewalk. A public walkway designed for the use of pedestrians and exclusively reserved for them.

Site Plan. Plans, prepared to scale, showing accurately all Buildings, structures, uses, parking and principal site development features proposed for a specific parcel of land.

Space. As used in Article IX Manufactured and Mobile Home District, Sections 6, 7 and 8, Space shall mean the space or lot designated for the location of one Manufactured Home or Mobile Home.

Temporary Structure. An Accessory Use Building or a Building located in a Commercial District of Manufacturing District for a limited period of time which must be removed from such Zoning District at the conclusion of such period. Temporary Structures are not required to be situated on a Footing.

Trailer. A Trailer is a vehicle or portable structure specifically designed to haul people, goods, animals, livestock or sundries, and constructed or redesigned to be mounted on wheels and used as a means of conveyance on the streets and highways, not propelled or drawn by its own motor power.

Variance. A Variance is an authorization to depart from a specific Zoning Regulation found in this Ordinance. A Variance shall not be used to grant any use not found in the Zoning Regulations applicable to a Zoning District. A Variance is limited to physical attributes, and not the use of property.

Westmoreland. The City of Westmoreland is a municipality in Pottawatomie County, Kansas.

Zoning Administrator. The individual appointed by the Governing Body of the City to perform the duties set out in Article XII Administration of Ordinance, Section 2, of this Ordinance. The term “Zoning Administrator,” when used in this Ordinance, shall include the Zoning Administrator and his/her deputies.

Zoning Regulation. Any rule governing matters provided for in this Ordinance or any amendment thereto.

Article V. Districts and Boundaries

Section 1. District Classification. In order to carry out the purposes of this Ordinance and to classify, regulate, and restrict the location of trades, industries, residential uses, and the location of Buildings designed for specified uses, and to regulate and limit the intensity of the use of lots, the City of Westmoreland, Kansas is hereby divided into the following Zoning Districts:

- Residential District (R District)
- Commercial District (C District)
- Manufacturing District (M District)
- Manufactured and Mobile Home District (MMH District)

Section 2. Zoning Districts. The boundaries of the Zoning Districts referred to in Section 1 last above are provided hereafter.

Residential District (R District)

All of the City of Westmoreland, Kansas, excepting those locations specifically designated below as C, M, or MMH Districts.

Commercial District (C District)

Commencing at the Southwest corner of Lot B. Armer’s First Addition to the City of Westmoreland, Kansas, hereinafter City, thence South on the East line of Walnut Street to the Northwest corner of Lot 1 Block 1 in Dudley’s Addition to the City; thence East on the South line of State Street to the Northwest corner of Block 3 in Dudley’s Addition to the City; thence South on the West line of Block 3 of Dudley’s Addition to the Southwest corner thereof; thence East to the Southeast corner of Block 3 of Dudley’s Addition; thence North along the East line of the said Block 3 to the Northeast corner thereof; thence East on the South line of State Street to the Northwest corner of an unnumbered tract which point is 340 feet West of the Northwest corner of Lot 10, Farmers State Bank Addition to the City; thence South on the West line of such unnumbered tract to the Southwest corner of Lot 6 in Farmers State Bank Addition to the City; thence East on the South line of Lot 6 Farmers State Bank Addition and Oregon Trail Drive to the West right-of-way line of Highway 99 then North on the West right-

of-way of Highway 99 to the North line of Armer Street which if extended would intersect the West right-of-way line for Highway 99; thence West along the North line of Armer Street as extended to the Southeast corner of Lot 13, Rachel Armer's Addition; thence North on the West line of Second Street in the CITY to the Northeast corner of Lot 12 of Rachel Armer's Addition; thence West on the South line of North Street to the Northwest corner of Lot 7 of Rachel Armer's Addition; thence South on the East line of First Street of the CITY to the North line of Armer Street; thence West along the North line of Armer Street as extended to the point of beginning which is the Southwest corner of Lot B, Armer's First Addition to the City.

Manufacturing District (M District)

Commencing on the South line of Oregon Trail Drive in the City of Westmoreland, Kansas, hereinafter City, where such street intersects the West right-of-way line of Highway 99; thence West along the South side of Oregon Trail Drive and Lot 6 of Farmers State Bank Addition to the Southwest corner of the said Lot 6; thence South a distance of 138.125 feet which is also the Southeast corner of an unnumbered Tract in the City; thence West to the East line of 4th Street in the City; thence South along the East line to the South boundary of the Townsite of the City; thence East along the South line of the City to the West right-of-way line of Highway 99; thence North to the point of beginning, being the point where the South line of Oregon Trail Drive in the City intersects with the West right-of-way of Highway 99.

And

The Southeast Quarter (SE ¼) of the Northwest Quarter (NW¼) of Section 10, Township 8, Range 9, East of the 6th P.M., except a tract beginning at the Northeast corner thereof and running thence West 175.65 feet, thence South 248 feet, thence East 175.65 feet, thence North 248 feet to the place of beginning, said exception containing one acre, more or less.

Manufactured and Mobile Home District (MMH District)

All of Blocks 2 and 6 in Dudley's Addition to the City of Westmoreland, Kansas.

Section 3. Territory Subsequently Annexed. All territory which is annexed to the City after the effective date of this Ordinance shall be placed in one of the delineated Zoning Districts, or such other Zoning Districts as may then be established by Ordinance of the city after review by the Planning Commission, whose recommendation shall be made to the Governing Body of the City. The final determination of such classification shall be made by the Governing Body.

Section 4. Amendments to Zoning Districts. Amendments to the official Zoning Districts shall be made in accordance with the provision of this Ordinance, and may be initiated by the Governing Body of the City, the Planning Commission for the City, or by application of the affected property owner.

Article VI. Residential District (R District)

Section 1. Intent and Purpose of a Residential District. The purpose of this District is to provide Family residential neighborhoods that are free from commercial and industrial activity. The R District is intended to preserve open space and provide for compatible facilities. It is the further intent of the Zoning Regulations provided herein for an R District to:

1.1 Allow the commingling of One-Family Dwelling Units and Two-Family Dwelling Units, other than Manufactured Homes or Mobile Homes while retaining basic residential qualities.

1.2 Promote the health, safety, and general welfare of Persons residing in the Residential District and to prevent uses which would devalue property.

Section 2. District Regulations. No Building or land in an R District, other than Conditional Uses, shall be used, erected, altered, or enlarged where such Building is arranged, intended or designed for any use other than those uses set forth in Section 3 below. All Buildings constructed in an R District shall be on a Permanent Foundation except Accessory Use Buildings and Temporary Structures incidental to construction work which are allowed as long as they comply with the restrictions found in the Definitions Article of this ordinance.

Section 3. Permitted Uses. Uses permitted in an R District are as follows:

3.1 One-Family Dwelling Unit.

3.2 Two-Family Dwelling Unit.

3.3 Manufactured Home of Residential Design.

3.4 Modular Home.

3.5 Churches.

3.6 Schools.

3.7 Child Day Care (less than 24 hours per day), including: Licensed Day Care Home, Group Day Care Home, and Child Day Care as defined in Article IV Definitions.

3.8 Home Occupations, provided that there is no external evidence of such operations, except signage as allowed under Article IV Definitions.

3.9 Any public Building erected by the City, County, State or Federal Government.

3.10 Accessory Uses, subject to limitations set forth in Section 4, next below.

3.11 Temporary Structures incidental to construction work for Permitted Uses but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the Dwelling Unit is complete.

Section 4. Accessory Use Buildings. No Accessory Use Building shall be permitted in an R District which is:

4.1 Used or intended to be used to keep or harbor livestock or animals of any kind for sale.

4.2 A Kennel.

4.3 The size of which exceeds the square footage of the ground level floor of the residential Dwelling Unit.

4.4 A Manufactured Home, Mobile Home, Trailer, or Recreational Vehicle.

Section 5. Limitations. No Manufactured Home, Mobile Home, Trailer, or Recreational Vehicle shall be altered in an attempt to create a Dwelling Unit, or a Manufactured Home of Residential Design.

Section 6. Conditional Uses Subject to Review. The following uses may be permitted on review by the Planning Commission:

- 6.1** Non-municipal governmental public Buildings and public utilities.
- 6.2** A civic club not conducted for profit.
- 6.3** A medical facility.
- 6.4** Child Care Centers/Preschools.
- 6.5** Multiple-Family Dwelling Unit.
- 6.6** Bed and Breakfast establishments.
- 6.7** Adult care homes, residential care homes for special needs adults, and residential care homes for special needs children.
- 6.8** Communication towers or structures.
- 6.9** Storage Units.
- 6.10** All facilities designed for people incarcerated by the judicial system.
- 6.11** Clinics.
- 6.12** Greenhouses.
- 6.13** Public Parks or Commons Areas.

Considerations will include, by way of example but not by way of limitation, appropriate and sufficient parking, specified setbacks and Sidewalks.

Section 7. Area Regulations.

7.1 Residential lots shall have a minimum size of six thousand (6,000) square feet.

7.2 All Building structures shall maintain a minimum front setback distance of twenty-five feet (25') from the eave line to the street right-of-way/property line, except where a structure is built upon a corner lot, the setback on the side adjacent to any street should be a minimum of twenty-five feet (25'). All Building structures shall maintain a minimum setback distance of ten feet (10') from the eave line to the rear property line unless a greater setback distance is set out in the plat. All Building structures shall maintain a minimum setback distance of eight feet (8') from eave line to all other property lines, unless a greater setback distance is set out in the plat. All new Building structures in the original plat of the City of Westmoreland that cannot meet the current setback regulations may at the discretion of the Zoning Administrator be changed to allow the Building structure to be built to the current setbacks that the Building structure(s) on the property were built to. All vacant lots in the original plat of the City of Westmoreland must follow the current setback regulations.

7.3 Buildings may be repaired, remodeled or rebuilt in their current Footprint and can be expanded if the setbacks of the addition conform to current requirements of the Zoning Ordinance.

7.4 Fencing shall be a maximum height of eight (8) feet and shall not extend forward from the front corners of the Dwelling Unit. Fencing that does extend from the front corners of a Dwelling Unit shall be a maximum height of four (4) feet. Front yard fencing shall not extend past the property lines of the front or side line boundaries. Fencing built past the front corner of a Dwelling Unit shall include an unlocked, ready-to-access gate for city agents/personnel and first responder/emergency personnel to access the water meter or any part of the

property necessary to carry out their duties, whether or not exigent circumstances are present. Fencing built across the utility easements or the front corners of a Dwelling Unit are subject to removal for utility work or repairs will be replaced and/or reinstalled at the expense of the property owner.

7.5. Residential lots shall be maintained in good order, free from debris and inoperative machines or vehicles.

Section 8. Building Permits and Site Plan.

8.1 Requirements are specified within Article XII Administration of Ordinance.

Article VII. Commercial District (C District)

Section 1. Intent and Purpose of a Commercial District. The purpose of this District is to group retail merchandising and commercial activities into concentrated areas serving as a general trade area, subject to the limitations set forth in Section 4 below.

Section 2. District Regulations. No Building of land in a C District shall be used, erected, altered, or enlarged which is arranged, intended or designed for any use other than those set forth in Section 3 below.

Section 3. Permitted Uses. Uses permitted in a C District are as follows:

- 3.1** All uses permitted in an R District.
- 3.2** Retail sales of any kind, other than Kennels.
- 3.3** Professional offices.
- 3.4** Banks.
- 3.5** City, State or Federal agencies providing for the transaction of public business or public safety.
- 3.6** Accessory Use Buildings, subject to the limitations set forth in Section 5 below.

Section 4. Type of Building Permitted. Buildings permitted in a C District shall be on a Permanent Foundation except Accessory Use Buildings and Temporary Structures incidental to construction work which are allowed as long as they comply with the restrictions found in the Definitions article of this Ordinance. Buildings permitted shall not include Manufactured Homes, Mobile Homes, or Trailers, other than as may be permitted under Section 6 below.

Section 5. Limitation. Except as permitted under Section 6 next below, no Manufactured Home, Mobile Home, or Trailer shall be Altered in an attempt to create a Building the use of which is permitted under this Article VII Commercial District.

Section 6. Conditional Uses Subject to Review. The following Conditional Uses are permitted in a C District, after issuance of a Conditional Use Permit as provided in Article XIII Conditional Use of this Ordinance:

- 6.1** All uses permitted in an M District.
- 6.2** All Conditional Uses subject to review in an R District.
- 6.3** Buildings or Accessory Use Buildings which are designed as Manufactured Homes, Mobile Homes or Trailers.

6.4 Temporary Structures. Any conditional Use allowing a Temporary Structure shall specify the time period that such structure shall be allowed to remain within the C District.

Section 7. Building Permits and Site Plan.

7.1 Requirements are specified within Article XII Administration of Ordinance.

Article VIII. Manufacturing District (M District)

Section 1. Intent and Purpose of a Manufacturing District. The purpose of this District is to provide space for industrial production, fabrication, assembly, office, research, experimental facilities, and limited retail in enclosed Buildings and/or an enclosed and landscaped yard with attractive and well planned surroundings.

Section 2. District Regulations. No Building or land in an M District shall be used, erected, altered or enlarged which is arranged, intended or designed for any use other than those set forth in Section 3 next below.

Section 3. Permitted Uses. The uses referred to in this Section shall be permitted providing that the entire operation is conducted within an enclosed Building and/or an enclosed and landscaped yard. No portion of the land included within this Zoning District shall be used in such a manner as to create a nuisance to adjacent sites, such as, but not limited to vibration, sound, electromagnetic disturbance, radiation, air pollution, dust, or emission of odorous, toxic, or noxious matter. All such activities which produce any of the aforementioned effects must be capable of containing these impacts within their own boundaries. Uses must comply with all City, State and Federal Statutes, laws, and/or regulations regarding protection of the environment and the surrounding properties. Commercial outlets for products manufactured on the property shall be allowed in the M District. Uses permitted are:

3.1 Those which are primarily engaged in the assembly, fabrication or manufacture of products.

3.2 Those uses which are engaged in research, assembly, testing, and repair of components, services, equipment and systems, and parts and components.

3.3 Warehouses.

3.4 Wholesale outlets.

3.5 Retail outlets in conjunction with industrial use.

3.6 Shipping facilities.

3.7 Laboratories and businesses engaged in research and experimentation.

3.8 Businesses engaged in waste or refuse transportation, storage or processing, provided that all cleaning operations and storage of salvageable items and equipment are contained completely within an enclosed Building.

3.9 Bottling facilities.

3.10 Activities involving the processing of textiles, fibers, footwear and wearing Apparel of any kind.

3.11 Accessory Use Buildings.

3.12 Temporary Structures incidental to construction work for Permitted Uses but only for the period of such work.

3.13 All uses permitted in a C District.

Section 4. Conditional Uses Subject to Review. The following conditional Uses are permitted in an M District after issuance of a Conditional Use Permit as provided in Article XIII Conditional Use of this Ordinance:

- 4.1 Kennels.
- 4.2 Junk and/or Salvage Yard.
- 4.3 Temporary Structures.

Section 5. Building Permits and Site Plan.

- 5.1 Requirements are specified within Article XII Administration of Ordinance.

Article IX. Manufactured and Mobile Home District (MMH District)

Section 1. Intent and Purpose of a Manufactured and Mobile Home District. The purpose of this District is to provide Family residential neighborhoods which are free from commercial and industrial activity where Manufactured Homes and/or Mobile Homes may be located independently or in Manufactured and Mobile Home Parks.

Section 2. District Regulations. No Building of land in a MMH District shall be used, erected, Altered or enlarged which is arranged, intended or designed for any use other than those uses set forth in Section 3 below.

Section 3. Permitted Uses. Uses permitted in a MMH District are as follows:

- 3.1 All uses permitted in an R District.
- 3.2 Manufactured Home.
- 3.3 Mobile Home.
- 3.4 Manufactured and Mobile Home Park.

Section 4. Accessory Use Buildings. Accessory Use Buildings are allowed as long as they comply with the restrictions found in the Definitions article of this ordinance.

Section 5. Foundations and Skirting. All Manufactured Homes and Mobile Homes shall be on a Permanent Foundation (as defined in Article IV Definitions), or on piers with tie-downs or anchors as regulated by law, and shall be skirted.

Section 6. Location. Manufactured Homes and Mobile Homes may be located in the MMH District provided under this Article IX Manufactured and Mobile Home District, either independently or within a Manufactured and Mobile Home Park (hereinafter Park). When located independently outside a Park, no more than one Manufactured Home or one Mobile Home (hereinafter Unit) will be harbored on a Space. Such Space shall be of sufficient size so that there is a clearance of no less than twenty feet (20') between lot lines and any part of the Unit or Accessory Use Building.

Section 7. Replacement Manufactured Homes and/or Mobile Homes. In the event that a Manufactured Home or Mobile Home, located either independently or within a Park, is moved from its Space, any replacement Manufactured Home or Mobile Home must be less than 10 years of age at the time of installation. That age shall be based on the manufacture date on the Home's title.

Section 8. Location and Environmental Requirements for Parks. Parks shall conform to the following requirements:

8.1 The Park shall be located on a well-designed site, properly graded to insure rapid drainage and freedom from stagnant water.

8.2 Each Space for a Unit shall be provided with a paved patio of at least 180 square feet and an Accessory Use Building of at least 80 square feet.

8.3 Units shall be harbored on each Space so that with respect to Units parked end to end, the end to end clearance shall not be less than fifteen feet (15'). No Unit shall be located closer than twenty feet (20') from any property line bounding the Park.

8.4 All Parks shall be provided with safe and convenient vehicular access extending to every lot. All road surfaces shall be concrete, asphalt, asphaltic concrete, or crushed rock set at a depth of at least six inches (6") with a chip and seal surface.

8.5 The baseline requirements for internal roads within the Park shall be a width of twenty feet (20') and shall be the responsibility of the Park owner. Such roads shall remain in private ownership. If internal road conditions become unsafe, or unsatisfactory for vehicular travel, the Governing Body of the City may by resolution repair such internal roads and bill the Park owner directly or levy the costs thereof as a special tax assessment against the real estate comprising the Park. If the cost of repairing such streets is billed to the Person owning the Park, such Person shall pay the full amount of the billing to the City Clerk within thirty (30) days after the bill is mailed to such Person's last known address. The City may seek to collect any unpaid bill by such legal action as it deems appropriate.

8.6 Parks shall provide lighting units within the Park at such heights and spacing as will provide acceptable levels of illumination for the safe movement of pedestrians and vehicles at night. Such lighting shall further illuminate the Park in a manner which will promote safety from vandalism, theft, or Personal assault.

8.7 Parks shall include storm shelter or shelters for occupants. Design specifications shall be guided by the Americans with Disabilities Act. The shelter or shelters must be accessible to Park residents in a central place. Access to the shelter(s) must be clearly marked. The shelter(s) shall be sufficient in number and size to accommodate all residents of the Park.

8.8 Accessory structures for Units, such as porches, cabanas, and carports may be used, provided that lot line requirements as set out in Section 6 above are met.

8.9 Park owners will provide off-street parking for at least two vehicles at each Mobile Housing Unit.

8.10 All Parks using natural gas shall be equipped with approved manual and breakaway connections with automatic shut-off valve installed upstream of the gas outlet.

8.11 The Park owner shall be responsible for payment of all costs related to establishing and maintaining the Park services and facilities, including those services and facilities set out in this Section 8.

Section 9. Park Management. The Park owner of his/her duly appointed manager, agent or employee shall:

9.1 Notify all Park residents of the rules and regulations governing the use of the Park, including the Zoning regulations contained in this Ordinance which affect their occupancy.

- 9.2 Comply with all Zoning regulations governing Parks as provided by this Ordinance.
- 9.3 Ensure that all Park residents comply with the provisions of this Ordinance.
- 9.4 Maintain a register of all current Park residents identified by lot number.
- 9.5 Notify the Zoning Administrator in writing of individual violations of the provisions or Zoning Regulations of this Ordinance.

Section 10. Park Occupants. Park occupants shall:

- 10.1 Maintain lots in good order, free from debris and inoperative machines or vehicles.
- 10.2 Abide by all rules of the Park owner or his/her manager so long as those rules do not conflict with any provisions of this Ordinance.

Section 11. Building Permits and Site Plan.

- 11.1 Requirements are specified within Article XII Administration of Ordinance.

Article X. Adult Bookstore, Novelty Store, or Adult Video Store

Section 1. No Adult Bookstore, Novelty Store, or Adult Video Store shall be allowed in any Zoning District in the City limits of Westmoreland, Kansas.

Article XI. Non-Conforming Buildings and Uses

Section 1. Non-Conforming Buildings and Uses.

- 1.1 Any use of property existing at the time of the passage of this Ordinance that is not an authorized use in the Zoning District in which such property is located shall be deemed a Non-Conforming Use.
- 1.2 If the boundaries of a Zoning District are changed which results in the transfer of an area to another Zoning District with a different classification, the provisions of this Article XI Non-Conforming Buildings and Uses shall apply to any Non-Conforming Use in the area transferred.
- 1.3 A Non-Conforming Use shall not extended nor changed to another Non-Conforming Use (unless the Board of Zoning Appeals approves such extension or change; provided that any extension or change in a Non-Conforming Use must be found by the Board of Zoning Appeals to be changed to a more conforming use).
- 1.4 No Non-Conforming Use shall be extended to displace a conforming use.
- 1.5 Whenever a Non-Conforming Use has been discontinued for a period of 60 days such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.
- 1.6 Once changed to a conforming use, no Building or land shall be permitted to revert to a Non-Conforming Use.
- 1.7 A Non-Conforming Building may be reconstructed or added to during its life where the total cost of such reconstruction or addition does not exceed fifty percent (50%) of the fair market value of the Non-Conforming Building at the time the reconstruction or addition is commenced. A Non-Conforming Building may be reconstructed within its current Footprint.
- 1.8 Removal from property of a Manufactured Home or Mobile Home which is deemed a Non-Conforming Building or Use under this Ordinance shall be a

relinquishment of the right to continue such Non-Conforming Use and any future use of such property shall be in conformity with the provisions of this Ordinance.

1.9 Provisions within this Article XI Non-Conforming Buildings and Uses shall not apply to Manufactured and Mobile Home Parks as provided for in Article IX Manufactured and Mobile Home District, Section 8 of this Ordinance. In regard to such Parks, a Non-Conforming Use under this Ordinance shall be relinquished when the property is no longer used as a Park.

Article XII. Administration of Ordinance

Section 1. Zoning Administrator. The Mayor of the City shall, with the consent of the Governing Body, appoint a Zoning Administrator and such deputies as the Mayor deems necessary to administer this Ordinance. The Zoning Administrator and deputies:

1.1 Shall serve at the pleasure of the Mayor and Governing Body and for such time as they determine.

1.2 Shall not be required to be a resident of the City.

Section 2. Duties of the Zoning Administrator. The Zoning Administrator shall:

2.1 Accept and process all applications for Building Permits, applications for rezoning, Conditional Uses and Variances.

2.2 Collect fees and charges provided by the Governing Body.

2.3 Enforce the terms and provisions of this Ordinance.

2.4 Make such inspections as shall be required to determine compliance with this Ordinance.

2.5 Issue Building Permits.

2.6 Issue Conditional Use Permits when approved by the Planning Commission and the Governing Body of the City.

2.7 Assist the Board of Zoning Appeals in such manner as they may require.

2.8 Apply this Ordinance in the performance of his/her duties, subject to review thereof by the Board of Zoning Appeals.

Section 3. Violations, Notice Thereof, Corrections, and Appeals. Should the Zoning Administrator conclude that a violation of this Ordinance exists, he/she shall give written notice thereof to the owner, and when known, the occupants, of the land or Building in violation and report such violation to the Chairperson of the Board of Zoning Appeals. The notice shall be sent by United States Mail, certified, postage prepaid, to the owner's or occupant's address as determined from the records of the City Clerk, the property tax rolls in the office of the County Treasurer for Pottawatomie County, Kansas, or any other reliable source.

The owner or occupant shall have ten (10) days after receipt of such notice to:

3.1 Commence such action as may be necessary to correct the violation and thereafter complete such correctional work within thirty (30) days or such additional time as may be provided by the Zoning Administrator; or

3.2 Appeal the determination of the Zoning Administrator to the Board of Zoning Appeals (BZA). Appeals to the BZA shall be in writing and filed with the City Clerk. The appeal shall state in plain and concise language the reason for the appeal and that portion of the Zoning Administrator's decision with which appellant disagrees.

Section 4. Building Permits and Site Plan.

4.1 A Building Permit shall be required before any Building, Accessory Use Building, or fence is:

4.1.1 Erected or constructed.

4.1.2 Extended or modified in any manner.

4.1.3 Moved to a new location from a previous location.

The term “erected” as used in this paragraph shall include the location of any Manufactured Home or Mobile Home on a Space in the Manufacturing and Mobile Home District (MMH District) provided for in Article IX Manufactured and Mobile Home District above.

4.2 All applicants for a Building Permit must provide:

4.2.1 A valid description for the land where the Building or Accessory Use Building is to be erected, constructed, extended, remodeled, or modified.

4.2.2 A scale drawing Site Plan showing the location of the Building or Accessory Use Building to be erected, constructed, extended, remodeled or modified.

4.2.3 A detailed description of the Building or Accessory Use Building to be erected, constructed, extended, remodeled or modified.

4.2.4 A detailed description of the proposed construction’s environmental impact on the Zoning District and the City.

Applications for Building Permits shall be filed with the City Clerk. The City Clerk shall submit the application to the Zoning Administrator for his/her approval. The Zoning Administrator shall make such inspection as he/she deems necessary to determine if the Building or extension thereof and the use which will be made of such Building or extension conforms to the provisions of this Ordinance. The Zoning Administrator or his/her deputy shall approve or reject all applications for Building Permits within twenty-one days after such an application is filled.

In the absence of the Zoning Administrator, his/her deputy may perform the Zoning Administrator’s duties.

4.3 By resolution the Governing Body of the city shall from time to time determine the fee to be charged for Building Permits.

4.4 Building Permits are valid for 180 days from the date of issue. All permits run with the land are valid for the term from owner to owner. Upon expiration of the permit, a new permit and a new fee is necessary, unless the Building has been completed. The new fee can be waived by the Zoning Administrator in a case where the permittee has a valid justification for not completing the building within the original permit period.

4.5 Building Permits shall be approved by the Zoning Administrator, or his/her deputy, and issued by the City Clerk.

4.6 No Building Permit shall be issued by the City Clerk which is not approved by the Zoning Administrator, or his/her deputy, or which in any way allows for the erection, construction, extension, remodeling or modification of any Building or Accessory Use Building which violates the intended purpose, or the Permitted Use

and Conditional Use regulations set out for the Zoning District, or would adversely affect the environment or the health, welfare or safety of residents of the City or their property. The applicant may appeal the decision of the Zoning Administrator to the Board of Zoning Appeals in the manner provided for administrative appeals as set out within this Article XII Administration of Ordinance.

4.7 A Building Permit shall also be required for the development, construction, extension, Alteration, or modification of a Manufactured and Mobile Home Park and the provisions of items 4.2, 4.3, 4.4, 4.5, 4.6, and 4.7 above shall apply to the application and issuance of such permits; provided that the information required in items 4.2.1, 4.2.2, 4.2.3, and 4.2.4 shall include a drawing of the proposed Park or any extension thereof, sufficient in detail to show the development, construction, extension, Alteration or modification of the Park, and that the Park conforms to all requirements of this Ordinance.

4.8 No Building shall be moved to any location unless and until a proper and suitable permanent foundation or footing has been previously constructed on such location upon which such Building will be permanently placed unless waived by the Zoning Administrator. The moved building or structure shall be anchored or attached by approved methods within thirty days after arrival on the new location and the building shall be properly enclosed and made weather-tight.

Section 5. Board of Zoning Appeals.

5.1 There is hereby created a Board of Zoning Appeals for the City. The Planning Commission shall act as the Board of Zoning Appeals as provided by the Planning Commission By-Laws.

5.2 Meetings of the BZA shall be held at the call of the Chairperson and at such other times as the BZA may determine. The BZA shall keep minutes of its proceedings showing evidence presented findings of fact by the BZA, decisions of the BZA and the vote upon each question. Records of all official actions of the BZA shall be public record and shall be kept at the BZA office which shall be City Hall, City of Westmoreland, Kansas.

5.3 The Governing Body may by ordinance or resolution establish a scale of reasonable fees to be paid in advance by any party filling an appeal with the BZA.

Section 6. Duties of the BZA

6.1 The authority of the BZA shall conform to the law of the State of Kansas and the provisions of this Ordinance. The BZA shall have authority to:

6.1.1 Grant Variances and exceptions from the Zoning Regulations contained in this Ordinance as provided in paragraphs B and C of this Section 6.

6.1.2 To hear and decide appeals from decisions of the Zoning Administrator or any other administrative official in the enforcement of this Ordinance.

6.2 Where deemed necessary by the BZA may grant Variances and exceptions from the Zoning Regulations contained in this Ordinance which will not be contrary to the public interest and where, due to special circumstances, a literal enforcement of each Zoning Regulation, in an individual case, will result in unnecessary hardship.

6.3 In order for the BZA to grant a Variance from the Zoning Regulations provided in any Zoning District under this Ordinance, the BZA must find all of the following conditions have been met:

6.3.1 That the Variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same Zoning District; and is not created by an action or actions of the property owner or the applicant.

6.3.2 That the granting of the permit for the Variance will not adversely affect the rights of adjacent property owners or residents.

6.3.3 That the strict application of the provisions of the Zoning Regulations for which a Variance is requested will constitute unnecessary hardship upon the property owner submitting the application.

6.3.4 That the Variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

6.3.5 That granting the Variance desired will not be opposed to the general spirit and intent of the Zoning Regulations.

Section 7. Procedure for Appeals and Variances

7.1 Appeals to the BZA may be filed by any Person aggrieved by a determination of the Zoning Administrator or any officer of the City in the application of this Ordinance. Applications for a Variance must be made by the fee owners of the realty to which the Variance would apply.

7.2 Appeals or applications for a Variance to the BZA shall be in writing and filed with the City Clerk.

7.3 The appeal shall state in plain and concise language the reason for the appeal and that part of the Zoning Administrator's decision, or the decision of any other City official in the application of this Ordinance, with which the appellant disagrees.

7.4 An application for a Variance shall state:

7.4.1 The reason for the request.

7.4.2 The legal description of the property affected by the Variance.

7.4.3 The name(s), address(es), and telephone number(s) of the applicant(s).

7.4.4 The names and addresses of all Persons who own property within 200 feet of the outer limits of the property to which the Variance would apply.

7.5 When an appeal is filed, the action of the Zoning Administrator shall be stayed pending a final decision of the BZA.

7.6 Appellant or applicant shall pay the City Clerk a filing fee at the time of the appeal or application is filed. The filing fee shall be established from time to time by resolution of the City's Governing Body.

7.7 When an appeal or application for a Variance is filed, the City Clerk shall notify the Chairman of the BZA of this fact. The City Clerk shall submit a copy of such appeal or application to the:

Chairman of the BZA;

Zoning Administrator;

Chairman of the Planning Commission; and,

Mayor of the City.

The Chairman of the BZA shall convene the BZA and set a time for the hearing on the appeal or application. Notice of the time and place of the hearing shall be published once in the official

City Newspaper at least 20 days prior to the date fixed for the hearing. The City Clerk shall mail a copy of the notice of hearing, within seven (7) days after first publication, to the following:

Appellant or applicant;
Zoning Administrator;
Chairman of the Planning Commission; and,
Mayor of the City.

In case of an application for a Variance, the City Clerk shall also mail a copy of the notice of hearing to all Persons who own real estate within 200 feet of the outer limits of the property to which the Variance would apply. The BZA shall fix a reasonable time for the hearing of an appeal or an application for Variance; provided that such hearing shall not be later than sixth (60) days after the filing of the appeal or application, unless continued for good cause by the BZA.

7.8 The appellant or applicant, or representative, must appear before the BZA at the appointed time and day for the hearing. Failure to appear, unless waived by the BZA, shall result in a dismissal of the appeal or application.

7.9 All hearings before the BZA shall be open to the public. The BZA may, however, adjourn a hearing from time to time and may meet in closed session to debate the record created at the public hearing. The BZA shall submit its findings to appellants or applicants in writing within sixty (60) days after the hearing.

7.10 The BZA is a quasi-judicial body, and therefore due process is required for official hearings. All Persons wishing to give testimony before the BZA shall be administered an oath or affirmation by the Chairperson. The hearing procedure shall be as set out in paragraph 7.11, next below.

7.11 The hearing procedure shall be as follows:

7.11.1 A quorum of the BZA must be present for the hearing.

7.11.2 All votes of the BZA shall be “yes” or “no” by voice with a tape record and written minutes kept of each session.

7.11.3 Hearings shall be informal. The rules of evidence shall not govern the conduct of hearings. Due process shall be afforded parties appearing before the BZA.

7.11.4 The Chairman of the BZA shall conduct hearings. In the event of the Chairman’s absence, the Vice Chairman will conduct the hearing.

7.11.5 The appellant or applicant, or representative, shall be allowed speak in support of the appeal or application. Thereafter, other Persons wishing to speak in support of the appeal or application shall be heard.

7.11.6 After presentation of information supporting the appeal or application, those present who oppose the appeal or application, including the Zoning Administrator, may speak in opposition to the appeal or application.

7.11.7 Members of the BZA may direct questions to any Person who offers testimony before the BZA.

7.11.8 The BZA Chairman may set reasonable time limits for the presentation of or in opposition to an appeal or application.

7.11.9 Subsequent to the presentation of all testimony in support of or in opposition to the appeal or application, the Chairman shall close the hearing. Thereafter, the BZA shall consider and determine the appeal or application

7.11.10 The Chairman of the BZA may adjourn the hearing from time to time as he or she determines necessary to provide for a complete hearing

and sufficient time for the BZA to make its decision with sixty (60) days after the date of the initial hearing.

7.11.11 Affirmation or denial of an appeal or approval/disapproval of an application for a Variance must be by a majority vote of the entire membership of the BZA.

7.12 Actions of the BZA are final orders and are not sent to the Governing Body of the City for review or approval.

Article XIII. Conditional Use

Section 1. The Planning Commission may grant permission for any Conditional Use specifically enumerated in this Ordinance under the Residential, Commercial, or Manufacturing Districts. Granting a Conditional Use is not Rezoning. Property must be correctly zoned before a Conditional Use can be granted, or must be Rezoned, if necessary, before a Conditional Use can be allowed.

Section 2. Persons applying for a Conditional Use must be the fee owners of the property to which the use would apply. An application for a Conditional Use shall be filed with the City Clerk. The application shall contain the following information:

2.1 The name, address, and telephone number of the applicant(s).

2.2 The legal description of the property which is the subject of the application.

2.3 A statement specifying the need for the Conditional Use and the exact activities to be conducted on the property.

2.4 A statement explaining why the proposed Conditional Use would not adversely impact adjacent or nearby property values, cause inconvenience to the public and the extent to which traffic and other activities would change.

2.5 The names and addresses of all Persons who are the owners of record of property within 200 feet of the outer limits of the property for which a Conditional Use is requested.

Section 3. The City Clerk shall deliver a copy of the application for Conditional Use to the Chairman of the Planning Commission, the Zoning Administrator, and the Mayor of the City. The Chairman of the Planning commission shall convene the Planning commission and set a date for the hearing on the application.

Section 4. The hearing for a Conditional Use shall be heard by the Planning Commission in the same manner as a hearing for a Variance under Article XII Administration of Ordinance, Section 7, items 7.7, 7.8, and 7.9 of this Ordinance.

Section 5. A Conditional Use is not a matter of right. The responsibility and the burden of proof for meeting the stated conditions, and those imposed by the Planning Commission, rest with the applicant. The Planning Commission, in addition to assuring that all stated conditions are fulfilled, must also find for the record that the proposed Conditional Use will not:

5.1 Reduce nearby property values.

- 5.2 Unreasonably disturb adjacent property owners or others in the enjoyment of their property rights.
- 5.3 Adversely affect the future development of the surround area.

Section 6. After the hearing the Planning Commission may by an affirmative vote of a majority of its entire membership approve the application for a Conditional Use, in full or in part. If an affirmative vote of a majority of the Planning Commission's entire membership is not received, the application shall not be approved. If the application is approved in whole or in part, a Conditional Use Permit allowing the Conditional Use shall be issued by the Planning Commission to the applicant, which Conditional Use Permit shall be signed by the Planning Commission Chairman. The Planning commission will further amend the City's Zoning District map to show the Conditional Use as permitted.

Article XIV. Annexation of Land to the City

Section 1. Should the City consider annexation or receive a petition requesting annexation, all as provided for in K.S.A., 2006 Supp. 12-520, and amendments thereto, then prior to the passage of a resolution or acceptance of a landowner's petition for annexation, the City shall:

- 1.1 Present to the Planning Commission a copy of such resolution or petition describing the boundaries of the land proposed for annexation and an aerial map showing the location of such property.
- 1.2 Advise the Planning Commission of the City's plans to extend utilities to the area considered for annexation.
- 1.3 Request that the Planning Commission advise the City whether annexation of the land should be allowed, and if so, which Zoning District classification is appropriate for the land.

Section 2. Upon receipt of the request and information referred to above, the Planning commission shall meet in one or more sessions, consider the proposed annexation and within 60 days after receipt of the request, advise the Governing Body whether such annexation should occur; and if so, which Zoning District classification is appropriate for the land. It is understood that the opinion of the Planning Commission is advisory only.

Section 3. The City's Governing Body shall furnish the Planning Commission such information as it requests which is reasonably necessary for the accomplishment of the Commission's obligation under this Article XIV Annexation of Land to the City.

Article XV. Fees

Section 1. By resolution, the Governing Body of the City from time to time may adopt a schedule of fees for administration of this Ordinance, which shall include by way of example, but not by way of limitation, fees for:

- 1.1 Building permits.
- 1.2 Application for Rezoning, Conditional Uses and Variances.
- 1.3 Appeals to the BZA.

Article XVI. Amendment

Section 1. The Governing Body of the City may from time to time amend, supplement, or change the Zoning District boundaries or Zoning Regulations contained in this Ordinance. A proposal for an amendment or a change to the Zoning District boundaries or in the Zoning Regulations may be initiated by the Governing Body or by the Planning Commission or upon application of the owner of the property affected. All such proposed changes shall first be submitted to the Planning Commission for public hearing, recommendation and report. The Planning Commission shall hold a public hearing thereon and shall cause an accurate, written summary to be made of the proceedings.

Section 2. Any Person desiring any change in Zoning District boundaries or Zoning Regulations contained in this Ordinance, as to any lot, tract, or area of land, shall file with the City Clerk an application which shall contain the following information:

2.1 The name, address and telephone number of the applicant, unless the applicant is the Governing Body of the City or the Planning Commission.

2.2 The nature and purpose of the request, including a description of the property affected.

2.3 A statement setting forth the reasons why the applicant believes that the proposed amendment, supplement, or change in the Zoning District boundaries of Zoning Regulations under this Ordinance is appropriate and/or necessary.

2.4 The names and addresses of all owners of any property within the City's boundaries located within 200 feet of the outer limits of said area proposed to be changed or Rezoned.

2.5 A complete legal description of the boundaries of the properties to be included in the area to be changed or Rezoned.

If the requested change in Zoning District boundaries or Zoning Regulations under this Ordinance originates with the Planning commission, then such proposal shall not require the filing of an application under this section.

Section 3. Before the Planning Commission shall formulate its recommendation to the Governing Body on any such proposed or requested change of Zoning District boundaries or Zoning Regulations, whether initiated by the Governing Body of Planning Commission, or by others, the Planning Commission shall hold a public hearing on the application or proposal. The Planning Commission shall cause a notice of public hearing to be published once in the official newspaper and give written notice of such proposed change, when applicable, to all owners of property within the City's boundaries within 200 feet of the outer limits of the area to be altered, all as required for development and adoption of the original Zoning Regulations contained in this Ordinance, as provided in K.S.A. 12-756, and amendments thereto.

Section 4. The hearing shall be conducted pursuant to the provisions therefore contained in the Bylaws of the Planning Commission, and any amendments thereto.

Section 5. Subsequent to the public hearing, the Planning Commission shall submit its proposal or recommendation concerning the application to the Governing Body of the City in accordance with the requirements of K.S.A. 12-756, and amendments thereto, and the Bylaws of the Planning Commission. The Governing Body of the City shall approve or disapprove the recommendation of the Planning Commission as provided for in K.S.A. 12-756, and amendments thereto.

Section 6. If a protest against such recommendation for Rezoning is filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, said protest being duly signed and acknowledged by the owners of twenty (20) percent or more of any real property proposed to be Rezoned or by the owners of twenty (20) percent of the area, excepting public streets and ways, located within the corporate limits of the City and within 200 feet of the boundaries of the property proposed to be Rezoned, such amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the Governing Body.

Article XVII. Violations and Penalties

Section 1. A violation of any Zoning Regulation adopted by this Ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months for each offense, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense. In addition, the City may institute appropriate actions in any Court of competent jurisdiction to enforce the Zoning Regulations in this Ordinance, including injunctions and mandamus, to prevent unlawful erection, construction or Alteration of Buildings, use of land, or occupation of Buildings; to abate nuisances; and/or prosecute failure to obtain permits, refusal to obey and adhere to a lawful order of the Zoning Administrator, or any violation of the terms of this Ordinance.

Section 2. Any Person whose property or use of property is affected by a violation of this Ordinance shall have authority to maintain suits or actions in any court of competent jurisdiction to enforce the Zoning Regulations of this Ordinance and to abate nuisances maintained in violation thereof.

Section 3. The Zoning Administrator shall have the following remedies, without limitations:

3.1 No Action. After careful consideration, an opinion that there is no violation of the Zoning Regulations of this Ordinance may be issued by the Zoning Administrator.

3.2 Informal Contact. The Zoning Administrator shall have authority to effectuate the abatement of violations to the Zoning Regulations through informal meetings or conversations.

3.3 Agreement to Abate. The Zoning Administrator may enter into an agreement with a violator to abate or remedy a violation within a period of time not to exceed six (6) months from and after the date of the Agreement to Abate.

Article XVIII. Validity

Section 1. If any section, subsection, sentence, clause or phrase in this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Article XIX. Repeal of Prior Ordinances or Parts Thereof in Conflict

This Ordinance repeals all Ordinances of the City of Westmoreland, Kansas, or parts thereof, which are in conflict with this Ordinance.

Article XX. Effective Date

Section 1. This Ordinance shall be in full force from and after its passage, approval, recording and publication as provided by law.

Passed and approved by the City Council of the City of Westmoreland, Kansas, and attested by the City Clerk this 13th day of September, 2007.

ss//: Mark A. Goodenow
Mayor, City of Westmoreland, Kansas

(SEAL)

ATTEST:

ss//: Vicki B. Zentner
City Clerk, City of Westmoreland, Kansas

(Published in the Westmoreland Recorder September 20, 2007)

Amended and approved by the City Council of the City of Westmoreland, Kansas, and attested by the City Clerk this 7th day of January, 2021.

ss//: Mark A. Goodenow
Mayor, City of Westmoreland, Kansas

ss//: Vicki B. Zentner
City Clerk, City of Westmoreland, Kansas