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AN ORDINANCE REGULATING SOLID WASTE MANAGEMENT (STORAGE, COLLECTION, TRANSPORTATION, PROCESSING AND DISPOSAL)

ORDINANCE NO. 338

AN ORDINANCE FOR WESTMORELAND, KANSAS: PERTAINING TO PUBLIC HEALTH, SAFETY, AND WELFARE: REGULATING STORAGE, COLLECTION, TRANSPORTATION, PROCESSING AND DISPOSAL OF SOLID WASTE: PROVIDING FOR COLLECTION AND DISPOSAL OF SOLID WASTE: PROVIDING A PENALTY FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

Be it Ordained By the Governing Body of the City of Westmoreland Kansas.

Section 1. DEFINITIONS

1.1 Garbage; putrescible animal or vegetable wastes resulting from the handling, preparation, cooking serving or consumption of food.

1.2 Rubbish; Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials including yard wastes and items commonly referred to as "trash" that are normally generated by occupants of dwelling units.

1.3 Yard wastes: grass clippings, leaves, and tree trimmings.

1.4 City: The City of Westmoreland, Kansas

1.5 Collection - Removal and transportation of solid waste from its place of storage to its place of processing or disposal.

1.6 Solid waste; Unwanted or discarded waste materials in a solid or semi-liquid state, consisting of garbage, rubbish, or a combination thereof.

1.7 Solid waste container - receptacle used by any person to store solid waste during the interval between solid waste collections.

1.8 Dwelling unit - Any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

1.9 Occupant; Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as a tenant.

1.10 Person - any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or organization of any kind, or their legal representative, agent or assigns.

1.11 Refuse - solid waste.

1.12 Sanitation Officer; person designated by the Mayor with the approval of the Council to enforce the provisions of this ordinance.

1.13 Residential solid waste; solid waste resulting from the maintenance and operation of dwelling units.

1.14 Bulky Solid Waste - Non-putrescible solid wastes consisting of combustible waste materials from dwelling units which are either too large to be loaded in solid waste collectors, with the equipment available therefore or weighs in excess of 250 pounds.

1.15 Solid Waste Disposal; The process of discarding or getting rid of unwanted material. In particular the final disposition of solid waste by man.

SOLID WASTE STORAGE. The occupant of every dwelling unit producing solid waste within the corporate limits of the city, shall provide sufficient and adequate containers for the storage of all solid waste except bulky solid waste to serve each such dwelling unit; and to maintain such solid waste containers at all times in good repair; and shall maintain the area surrounding them in a clean, neat, and sanitary condition at all times. These containers must have been originally manufactured for the purpose of storing solid waste including a lid. Exceptions to this will require special permission from the City.

## Section 2. COLLECTION OF SOLID WASTE

The city shall proceed for solid waste as follows:

### 2.1 Collection of Residential solid Waste;

The City shall proceed for the collection of residential solid waste in the City, provided, however that the City may provide the collection service by awarding an exclusive contract with a person for the entire City or portions thereof, as deemed to be in the best interests of the City. Such person upon being awarded the contract shall have the exclusive right on behalf of the City to collect and dispose of solid waste from the dwelling units therein; provided, that nothing herein shall prevent any resident within the City from personally disposing of the solid waste produced in the dwelling he occupies or the yard thereabouts. All solid waste collected shall, upon being loaded into collection equipment, become the property of the collection agency. Solid waste containers shall be placed at the curb before the time scheduled for collection. Bulky solid waste collection may or may not be provided, however, if not provided by the City, it shall be the occupants; responsibility to see that bulky solid waste does not accumulate and to see that it is properly disposed of or processed.

2.2 Solid Waste Collectors, employed by the City or A Solid Waste Collecting Agency operating under contract with the City, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this ordinance.

2.3 The following collection frequencies shall apply to collection of solid waste within the City; All residential solid waste, other than bulky solid waste, shall be collected at least once weekly.

2.4 Containers manually lifted shall not exceed 30 gallon in capacity nor weigh more than 70 pounds when full.

2.5 Occupants of dwelling units shall deliver their solid waste containers to the curb adjacent to their dwelling unit for collection.

2.6 No items shall be burned within the solid waste container nor shall ashes or burnt materials of any kind be deposited in such containers. Should any container contain evidence of ashes or burned materials the contents of such container shall not be collected and the occupant shall be required to dispose of the contents at a disposal areas as described in Section 3 or Section 5 (3) below.

2.7 All collection vehicles shall be maintained in a safe, clean, and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom.

## Section 3. DISPOSAL OF SOLID WASTE

Solid waste shall be disposed of at a processing facility or disposal area complying with all requirement of the Kansas State Department of Health.

#### Section 4. PERMITS

4.1 No person shall engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City, without first obtaining an annual permit therefore from the City; provided, however, that this provision shall not be deemed to apply to employees of the holder; and further provided, this provision shall not be deemed to apply to occupants of dwelling units within the City who from time to time choose to dispose of their own solid waste.

4.2 No such permit shall be issued until and unless the applicant therefore, in addition to all other requirements set forth, shall file and maintain with the City evidence of a satisfactory public liability insurance policy, covering all operations of such applicants pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than \$25,000.00 in the event of injury or death of any one person, \$50,000.00 in the event of injury or death for any single accident and in the amount of not less than \$25,000.00 for damage to property. Such policy may be written to allow the first \$100.00 of liability for damage to property to be deductible. Should any such policy be cancelled, the City shall be notified of such cancellation by the insurance carrier in writing not less than 30 days prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.

4.3 Each applicant for any such permit shall state in his application therefore;

- a. the nature of the permit desired, as to collect, transport, process, or dispose of solid waste or any combination thereof;
- b. characteristics of solid waste to be collected, transported, processed, or disposed; and ,
- c. the number of solid waste vehicles to be operated thereunder.

4.4 If the application shows that the applicant will collect, transport, process or dispose of solid wastes without hazard to the public health and in conformity with this ordinance, the City shall issue the permit for a period of one (1) calendar year, and each applicant shall pay therefore a fee of \$10.00. Such fee shall be charged in full not with standing the fact that the application is issued subsequent to January 1st of the year in which such permit is effective.

4.5 The annual permit may be renewed simply upon payment of the fee provided all other requirements of this ordinance are met.

4.6 In order to insure compliance with this ordinance the City is authorized to inspect all phases of solid waste management with the City. The sanitation officer of the City or his deputy is authorized to enter upon private property for the purpose of performing such inspections. In all instances where such inspections reveal violation of this ordinance, the City shall issue notice for each such violation stating therein the violation or violations found, the time and date, and the corrective measure to be taken, together with the time in which such corrections shall be made.

4.7 In all cases when the corrective measures have not been taken within the time specified the City shall suspend

or revoke the permit or permits involved in violations, however, in those cases where an extension of time will permit correction and there is not public health hazard created by the delay, one extension of time not to exceed the original time period may be given.

4.8 Any person who feels aggrieved by any notice of violation or order issued pursuant thereto of the City may, within 30 days of the act for which redress is sought appeal directly to the proper Court of Kansas in writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.

#### Section 5. PROHIBITED PRACTICES.

It shall be unlawful for any person to:

1. Deposit solid waste in any solid waste container other than his own, without the written consent of the owner of such container and/or, with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal;
2. Interfere in any manner with solid waste collection equipment, or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the City, or those of a solid waste collection agency or a person operating under contract with the City;
3. Dispose of solid waste at any facility or location which is not approved by the State of Kansas, Department of Health and Environment or under the solid waste disposal plan for Pottawatomie County, Kansas.
4. Engage in the business, for pay or hire, of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City without a permit from the City, or operate under an expired permit, or operate after a permit has been suspended or revoked; and,
5. Deposit solid waste any place within the City other than in a solid waste container except for the purpose of removing such waste from the confines of the City to an approved location for the disposal of such solid waste as set forth in sub paragraph 4 immediately above.

#### Section 6. SERVICE CHARGES.

6.1 The City of Westmoreland Kansas in providing the services of collection and depositing of residential solid waste shall collect a service charge or fee to defray the cost and maintenance of service and pay any person contracting with the City for the collection and disposal of residential solid waste the sum of \$3.00 per month from each dwelling unit within the City limits.

6.2 In the case of Mobile Home Parks, multiple or group dwelling there shall be a least one standard solid waste container for each dwelling unit.

6.3 The service charge shall be paid for each dwelling unit notwithstanding the fact that the occupants thereof may pursuant to this ordinance dispose of their own solid waste.

6.4 The service and service charge shall be terminated upon presentation of satisfactory proof to the City clerk of the City of Westmoreland, Kansas that such dwelling unit is unoccupied, and shall be commence upon renewed occupancy thereof.

6.5 The system of solid waste collection and disposal services established by the provisions of this ordinance is

hereby designated as an intricate part of the City's program of health and sanitation, to be operated as an adjunct to the City's system for providing potable water and the City's system for providing sewerage. The services provided for in this ordinance shall be deemed to be furnished both to the occupant and to the owner of the dwelling unit receiving such service, and the City may enforce collection of such charges by bringing proper legal action against the occupant, the owner, or both, of any dwelling unit which has received such services, to recover any sums due for such services plus a reasonable attorney's fee to be fixed by the Court and by terminating all utilities services to the dwelling unit receiving the services until such service charges are paid in full.

6.6 The service charge herein provided for is hereby imposed, jointly and severally, upon the owner and upon the occupant of each dwelling unit to which such service is made available under the provisions of this ordinance and billing therefor shall be made to the person contracting for city water and/or sewerage services to each such dwelling unit, in the event such person is neither the owner nor the occupant of such dwelling unit billing shall be made to the owner or the occupant hereof, or both.

6.7 All billing for solid waste service charges shall be included on city utility bills and no payments shall be accepted by the City Clerk except for the full amount due all utilities services. Delinquent solid waste bills shall carry the same due dates, grace periods, and penalties as City utility bills.

#### Section 7. PENALTIES.

Any person violating any of the provisions of this ordinance, upon conviction, shall be punished by a fine of not less than \$5.00 nor more than \$100.00 or by imprisonment not to exceed 30 days, or by both such fine and imprisonment; provided, that each day's violation thereof shall be a separate offense for the purpose hereof.

#### Section 8. REPEALS.

All sections of previous ordinance regarding solid waste management or of sub functions thereof, that are in conflict with this ordinance are hereby repealed.

#### Section 9. MANAGEMENT AND OPERATION

The Mayor with the approval of the City council may appoint a Sanitation Officer who shall be authorized to enforce the normal operation of the solid waste management program for Westmoreland, Kansas without separate Council action on each problem that arises. The Sanitation Officer shall be a resident of the City. Compensation will be decided by the City Council. All decisions by the Sanitation Officer shall be final unless a signed request for Council review is delivered to the City clerk within 10 days of the Sanitation Officer's decision on any matter and the Clerk shall present the request for review at the next regularly scheduled Council meeting. The City council may support, modify, or rescind the decisions of the Sanitation Officer.

#### Section 10. SEVERABILITY CLAUSE.

The provisions of this ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.

Section 11. EFFECTIVE DATE.

The ordinance shall take affect and be enforce from and after its passage and publication in the official city paper.

Passed and approved by the governing body of the City of Westmoreland, Kansas the 24th day of June, 1976 and adopted the 24th day of June, 1976.

/s/ Barbara D. Ebert  
President of Council,  
City of Westmoreland

ATTEST:

/s/ Linda J. Fair  
City Clerk