



City of
Westmoreland
Tennessee

POLICY AND PROCEDURES MANUAL

(Revised 2019)

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SECTION I – PERSONNEL POLICIES

A. PURPOSE AND OBJECTIVES

The main purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among city employees fostered by a systematic application of good procedures in human resources administration. Another purpose is to provide uniform policies for all employees with all the benefits such a program ensures, without regard to race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, exercise of free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right, or any right under clear public policy, political affiliation, or any other basis protected by law.

The city complies with Title VI of the Civil Rights Act of 1964. Title VI requires that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Amendments to the rules and regulations shall be made in accordance with the procedures herein and in accordance with the City Charter. Nothing in the rules and regulations document shall be deemed to give employees any more property rights in their jobs than may already be given by the city charter. Employees of the city serve at the pleasure of the City Council, and are considered 'At-Will' employees under Tennessee law.

The fundamental objectives of good personnel administration to be achieved by these policies and procedures are:

1. To promote and increase efficiency and economy among employees of the City of Westmoreland.
2. To provide fair and equal opportunity to all qualified individuals on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection.
3. To develop a program of recruitment, advancement and placement which will make employment with the City more attractive as a career and encourage each employee to render the best service.
4. To establish and maintain a uniform plan of evaluation and compensation.
5. To establish and promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

B. PERSONNEL POLICY STATEMENT

It is the policy of the City of Westmoreland to apply and foster a sound program of personnel management. The personnel policies of the City as follows:

1. EMPLOYMENT AND PLACEMENT

- a. To fill all positions without undue delay in accordance with job qualifications and requirements without discrimination to race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law.
- b. To establish programs for the promotion, transfer, demotion, dismissal and reassignment of personnel.

2. POSITION CLASSIFICATION AND PAY ADMINISTRATION

- a. To establish and maintain job descriptions for every position with the descriptions maintained on file with the City Recorder.
- b. To review position descriptions periodically and systematically with incumbent employees to insure they accurately reflect the current job requirements.
- c. To establish appropriate position standards and to group positions in classes with similar standards.
- d. Conduct area wage and salary surveys periodically, as council deems necessary.

3. EMPLOYEE RELATIONS AND SERVICES

- a. develop a system of job performance standards to evaluate and inform each employee periodically and systematically of the status of his/her job performance.
- b. To administer a uniform leave program.
- c. To provide employee grievance procedures.
- d. To develop a handbook to inform employees of their responsibilities and privileges.
- e. To provide and maintain a safe and healthful work environment.

4. EMPLOYEE DEVELOPMENT AND TRAINING

- a. To establish training standards and requirements for all positions.
- b. To motivate and stimulate employees to achieve their highest potential usefulness.

5. RECORDS

To establish and maintain comprehensive and uniform personnel records, and maintain confidentiality and privacy of employees to the extent allowed by law.

C. COVERAGE

These policies and procedures shall cover all employees in the City service unless specifically exempt by this document, the City Charter and/or the ordinances of the municipality.

All offices and positions of the City are categorized as either classified or exempt. Classified positions shall include all regular full-time and regular part-time positions in the City's service unless specifically placed in the exempt service. All offices and positions of the city categorized as exempt are as follows:

1. All elected officials.
2. Members of appointed boards and commissions.
3. Consultants, advisers, and legal counsel rendering temporary professional service.
4. City Attorney.
5. Independent contractors.
6. Persons employed by the Municipality for not more than three (3) months during a fiscal year.
7. Part-time employees paid by the hour or the day, and not considered regular.
8. Volunteer personnel appointed without compensation.
9. City Judge.

Some policies apply to all employees and officers of the City including those placed in the exempt* service, such as policies related to discrimination and/or harassment, and policies required by state or federal law.

**The exempt service determines those included under this policy, and is not intended to mean exempt or non-exempt classification under the Fair Labor Standards Act for purposes of determining eligibility for overtime compensation.*

D. ADMINISTRATION

These policies and procedures shall be administered by the Mayor, in cooperation with the City Council in conformity with the ordinance establishing a personnel system.

Amendments to the policies and procedures shall be made as indicated herein. The City reserves the right to alter or change any or all of its policies and procedures without prior notice to employees. Nothing in these personnel policies and procedures shall be deemed to give employees any additional property rights in their jobs than may already be given by the City charter.

SECTION II – CLASSIFICATION PLAN

A. PURPOSE

The classification plan will provide a complete inventory of all positions in the City's service and an accurate description and specifications for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the City service.

B. COMPOSITION OF THE CLASSIFICATION PLAN

The classification plan shall consist of:

1. A grouping of classes of positions which are approximately equal in difficulty and responsibility, which call for the same general qualification, and which can be equitably compensated within the same range of pay under similar working conditions;
2. Class titles descriptive of the work of the class which identifies the class;
3. Written specifications for each class of performance; and,
4. Physical standards for performance of the duties of the position.

C. USE OF CLASS TITLES

Class titles are to be used in all personnel, accounting, budget appropriation and financial records of the municipality. No person will be appointed or employed in a position in the City service under a title not included in the classification plan.

D. USE OF CLASS SPECIFICATIONS

Specifications are to be interpreted in their entirety and in relation to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of the class. Specifications are deemed to be descriptive and explanatory of the kind of work performed and not necessarily inclusive of all duties performed.

E. USE OF THE CLASSIFICATION PLAN

The Classification Plan is to be used:

1. As a guide in recruiting and examining candidates for employment;
2. In determining lines of promotion and in developing employee training programs;
3. In determining personal service items in departmental budgets, (i.e, training and travel); and,

4. In providing uniform job terminology understandable by all City officers and employees and by the general public.

F. ADMINISTRATION OF THE CLASSIFICATION PLAN

The Mayor, or designee, is charged with maintaining the classification plan of the City so that it will reflect the duties performed by each employee in the service of the City and the class to which each position is allocated. It is the duty of the Mayor to examine the nature of the classes of positions, to make such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions/ and periodically to review the entire classification plan and recommend appropriate changes in allocations or in the classification plan to the City Council. The Board shall then approve or change such recommendations.

G. ALLOCATION OF POSITIONS

Whenever a new position is established, or duties of an old position change, the supervisors shall submit in writing a comprehensive job description describing in detail the duties of such a position. The Mayor shall investigate the actual or suggested duties and recommend to the City Council the appropriate class allocation or the establishment of a new class. The Board shall then approve or change such recommendations.

H. REQUEST FOR RECLASSIFICATION

Any employee who considers his/her position improperly classified shall first submit his/her request to their immediate supervisor. Nothing in these personnel policies and procedures shall be deemed to give employees any additional property rights in their jobs than may already be given by the City Charter. If the department head/supervisor finds the request is not justified, he/she shall advise the employee of his/her decision and also the employee's right to appeal the decision under the grievance procedures. If the supervisor finds that there is merit in the request, he/she shall immediately transmit his/her recommendation to the Mayor. The Mayor shall investigate the actual or suggested duties and recommend to the City Council the appropriate class allocation for the establishment of a new class. The City Council shall then approve or change such recommendations.

SECTION III – COMPENSATION PLAN

A. PURPOSE

The pay plan is intended to provide fair compensation for all classes in the classification plan in consideration of the pay for other classes, general rates of pay for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

B. MAINTENANCE OF THE PAY PLAN

The Mayor will from time to time make comparative studies of all factors affecting the level of salaries and will recommend to the City Council such changes in the salary schedule as appear to be in order.

C. PAY FOR PART-TIME WORK

When an employment decision is for a part-time position, the employee will be paid no less than minimum wage, with actual wage being determined based on budgetary conditions, and will be scheduled on a part time basis.

D. HOURLY RATES

In accordance with the Fair Labor Standards Act (FLSA), no employee whether full-time, part-time or introductory, shall be paid less than the Federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked.

SECTION IV – EMPLOYMENT

A. APPLICATIONS

The City will make every effort to attract qualified applicants for open positions. Applications are only accepted when vacancies exist and will only be considered for the specific position applied. Applications will not remain active once a position has been filled. Applications will be retained according to the time frame as required by the records retention schedule. Applications for open positions only are received at City Hall, and given thorough consideration by the appropriate supervisor. The City of Westmoreland exercises a policy of fairness to every person who applies for work, and in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments through the City. The mayor will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

Applications may be removed from consideration if:

1. declines an appointment when offered;
2. cannot be located by the postal authorities – it will be deemed impossible to so locate an applicant when a communication mailed to the last known address is returned unclaimed;
3. cannot be located via appropriate alternative means of communication;
4. moves out of the approved geographic area, if residency is required for the position;
5. is currently using illegal drugs or narcotics as determined by a post-offer, pre-employment drug test;
6. is found to have been convicted of a felony or misdemeanor dependent upon the nature and gravity of the offense, the time passed since the offense, and the nature of the job sought;
7. has made a false statement on the application;
8. does not file the application within the period specified in the application/examination announcement or does not use the prescribed form or uses a different format than allowed as a reasonable accommodation; and/or
9. does not possess the minimum qualifications for the position.

B. PHYSICAL EXAMINATIONS

Pre-employment:

Following a conditional offer of full-time employment, dependent upon the job-related characteristics of the position, any prospective employee may be given a physical examination by a licensed physician designated by the City prior to the time he/she is hired, to determine if he/she can perform the essential functions of the position offered. The cost of this physical examination

and a drug screening examination, shall be borne by the City. Applicants who are unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the City withdrawn only if they:

1. Cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
2. Pose a direct threat to themselves and/or others;
3. Anyone needing a CDL license, as a pre-requisite for employment, must also pass the DOT Physical and the DOT periodic update.

Post-employment:

All employees of the City may, during the period of their employment, be required by the superiors and with the approval of the Mayor, to undergo periodic medical examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. This periodic medical examination shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician designated by the City.

When an employee of the City is reported by examining physician to be physically or mentally unfit to perform the work of the position in which he/she is employed, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the Mayor his/ her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The City shall pay its physician; the employee shall pay his/her physician and the third physician shall be paid by the City.

An employee determined to be physically or mentally unfit to continue in the position in which he/she is employed may be demoted in accordance with these policies and procedures or separated from the City service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
2. pose a direct threat to themselves and/or others.

C. MINIMUM AGE

The Fair Labor Standards Act requires that employees of State and local governments be at least 16 years of age for most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Minors 14 and 15 years of age may work outside school hours under certain conditions.

D. TYPES OF EMPLOYEES

1. REGULAR FULL-TIME EMPLOYEE (per hour or per month) – A regular full-time employee is an employee who is regularly scheduled to work a minimum of 40 hours, and who is subject to all conditions of employment and receives all benefits. Regular employees serve minimum of a 90 day introductory period for the purpose of establishing benefit eligibility.
2. REGULAR PART-TIME EMPLOYEE – Regular part-time employees work on a regular basis, and their hours cannot exceed 30 hours per week unless approved by the Mayor.
3. TEMPORARY EMPLOYEE AND/OR SEASONAL EMPLOYEE -

A temporary employee is an employee who works full-time, or part time, not on an ongoing basis, but not exceeding ten (10) months per calendar year and, who is paid on a per day or per hour basis. Temporary employees are not subject to all the conditions of employment but shall be fully capable of performing the assigned duties. These employees will receive no benefits except coverage under Worker's Compensation.

E. APPOINTMENTS, PROMOTION, DEMOTIONS, TRANSFERS AND CITIZENSHIP STATUS VERIFICATION

Pursuant to the City Charter, The City Council has the authority to appoint, promote, demote, transfer, suspend and remove all appointed officers and employees of the City of Westmoreland. The Mayor may make recommendations to the City Council for its consideration. The Mayor, or designee, may remove an employee from duty in the event the employee presents a safety or immediate financial risk to the City. The City will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the City will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after Nov. 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment or the individual will be terminated.

Appointments:

Appointments to positions with the City fall into four categories. They are:

1. Original Appointment – when a non-employee passes all the requirements of employability and is offered employment.
2. Provisional Appointment – When the municipality is unable to fill a vacancy because of an insufficient number of applicants, the City Council may authorize the Mayor to fill the vacancy by a provisional appointment. Provisional appointments require the prior approval of the City Council and no payment shall be made for services rendered by the appointee prior to the appointment.

3. Emergency Appointments - The Mayor may authorize the temporary appointment of any officer or department head to a position to prevent the stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed a total of ninety (90) days in any twelve (12) month period.
4. Student Appointments – Students, majoring in a field of value to the City, from a qualified, cooperating educational institution, may be employed on an “internship” basis for a period as approved by the City Council.

Promotions:

A promotion is an assignment of employee from one position to another, which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category in the classified service shall be filled as far as practical by the promotion of current employees. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

When an employee in one classification is promoted to a position in another classification and the employee’s current rate of pay is less than the minimum rate for the new position, the employee’s salary shall be raised to that minimum rate. When the employee’s salary falls above the new minimum rate, a percentage increase as determined by the City Council shall be given.

Transfers:

When an employee desires to transfer from one department to another, it must be agreeable to both supervisors involved and approved by the City Council. The transfer of an employee from one position to another without a significant change in responsibility or difficulty may be effective:

1. when the employee meets the qualification requirements for the new position,
2. if it is in the best interest of the City, and
3. if it meets the personal needs of the employee as consistent with the other requirements of these policies and procedures.

An employee who transfers from one City department to another will retain all benefits earned or accrued as of the date of transfer. As a general rule lateral transfers require no increase in compensation.

Demotions:

A demotion is an assignment of an employee from one position to another which has a lower maximum rate of pay, rank and responsibility. An employee may be demoted for any of the following reasons:

1. Because his/her position is being abolished and he/she would otherwise be laid off;

2. Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job;
3. Because there is a lack of work;
4. Because there is a lack of funds;
5. Because another employee, returning from authorized leave granted in accordance with the policies on leave, will occupy the position to which the employee is currently assigned;
6. Because the employee does not possess the necessary qualifications, or is physically or mentally unable to render satisfactory service in the position he/she holds;
7. Because the employee voluntarily requests such a demotion and it is available.
8. As a form of disciplinary action.

When an employee in one classification is demoted to a position in a lower classification and the employee's rate of pay is higher than the maximum rate for the new position, the employee's salary shall be reduced to the maximum rate of the new classification.

F. MOONLIGHTING/OUTSIDE EMPLOYMENT

No full time employee of the municipality shall accept any outside employment without written authorization from the Mayor. The Mayor shall not grant such authorization if the work is likely to interfere with satisfactory performance of the employee's duties, or is incompatible with his/her municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. Authorization may be revoked by the Mayor.

G. WORK DAY/WORK WEEK

Pursuant to the Fair Labor Standards Act, a workweek is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Except as is provided in special contracts of employment, the number of days that shall constitute a workweek for regular employment may be five (5) days per week. Schedules will vary in departments as necessary for the smooth operation of the City. A standard work-week is scheduled between 12:01 AM Monday, through 12:00AM Monday following. A standard work-week for a police officer is 43 hours. All holidays must be taken within 14 days of the official holiday, 30 days for sworn police personnel. Exceptions may be made by the immediate supervisor.

H. ATTENDANCE

Punctual and regular attendance is necessary for the efficient operation of the City. All employees may be designated scheduled work hours, and must complete time records documenting hours worked. Employees unavoidably late or absent from work due to illness or other cause, must notify their supervisor as early as possible, explaining the reason for the absence and, if possible an anticipated return to work date. Failure to notify one's supervisor of an absence may result in disciplinary action. Abuse of leave policies may result in disciplinary action. Employees found falsifying time records will be removed from duty immediately, and subject to disciplinary action up to and including termination of employment. Excessive tardiness may be regarded as sufficient reason for termination.

I. OVERTIME PAY

When it becomes necessary for an employee who is non-exempt under the Fair Labor Standards Act (FLSA) to work overtime hours, the employee shall be paid according to the prevailing salary schedule. Overtime work will be compensated in accordance with the provisions of the FLSA at a rate of one-and-one half the employee's regular rate. Overtime work must be authorized by the department supervisor. There shall be a minimum call out pay of 2 hours when duly called. If said employee works past two hours, then he/she shall be paid for the time actually worked. This does not include salary exempt employees. Those employees who are exempt from the overtime requirements of the FLSA may be paid on a salary basis, regardless of the quantity of work performed.

J. TIME RECORDS

All employees shall record actual hours worked on a time record. Department heads and supervisors shall review and sign all-time records. The following rules shall apply to the use of time records:

1. Employees are responsible for recording their starting time, quitting time and total hours worked for each work day, including unpaid lunches.
2. Employees shall not remove a time records from the designated employee area or leave the premises with said time records.
3. An employee failing to properly sign his/her time record must have it immediately approved, initialed or verified by a supervisor or department head to insure payment for hours worked. Failure to properly record hours worked may result in not being paid for those hours in question on the time record. Continued non-compliance may result in disciplinary action.
4. No non-supervisory employee shall mark on, or alter, another employee's time record. Employees that alter another employees' time record shall be subject to disciplinary action.
5. Paid leave must be used for approved absences away from scheduled work time; any absence from scheduled work time when no paid leave is available will be unpaid, including those employees classified as exempt under the Fair Labor Standards Act (FLSA).
6. Falsification of time records is subject to disciplinary action, up to, and including termination of employment.

K. NEPOTISM

No member of the immediate family (parent, sibling, spouse, and children, including immediate step-relatives) can supervise members of his/her family. This does not preclude employment of family members under other lines of supervision. If the city cannot reasonably transfer one of the family members to another department, and the family members can't decide which one will leave voluntarily, the employee in the more junior position will be subject to discharge.

L. WESTMORELAND COMPUTER USE POLICY

Computers, the internet, e-mail, as with other technologies, should be used to maximize the city's efforts in serving its citizens. It is every employee's duty to use the city's computer resources and communication devices responsibly, professionally, ethically and lawfully. These policies are not intended to, and do not, grant employees any contractual rights.

Computer Use Policy Overview

The computer resources are the property of the city and should be used for legitimate business purposes. While personal use of city computer resources is not forbidden, it is discouraged. Personal use shall be minimal and shall not interfere with the performance of the employee's, or other employees', job duties and responsibilities. Employees are permitted access to the computer resources to assist them in performing their jobs. Confidential information should not be provided using e-mail or shared with individuals who are not employed by the city without authorization. No one may use loopholes within the computer security systems, acts of deception, or knowledge of a special password to damage computer systems, compromise sensitive information, obtain extra resources, take resources from another employee, gain access to systems, or use systems from which proper authorization has not been given. Employees may not impersonate other individuals or misrepresent themselves to gain access to or compromise the city's information technologies.

The internet, e-mail or voice mail should not be used to solicit others to promote personal events or causes, commercial ventures, religious or political causes, outside organizations or other non-business matters. Employees are prohibited from uploading, posting, e-mailing, or otherwise transmitting any unsolicited or unauthorized advertising, promotional materials, junk mail, chain letters, pyramid schemes or any other form of solicitation. No one may use the city's computer resources for personal financial gain by posting messages that promote the products or services of a local business or their own product or services.

Use of the computer resources is a privilege that may be restricted or revoked at any time. All information contained in the computer resources and all documents generated there from are for the exclusive use of the city in connection with the conduct of its business and are the sole property of the city.

Waiver of Privacy Rights

Employees expressly waive any right of privacy in anything they create, store, send or receive using the computer resources. Employees consent to allowing the city to access and review all materials employees create, store, send or receive using the computer resources.

Inappropriate or Unlawful Material

Material that is, or could reasonably be regarded as, derogatory or discriminatory on the basis of race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic

information or any other basis protected by law, or is fraudulent, harassing, sexually explicit, profane, obscene, intimidating, defamatory or otherwise unlawful, may not be sent, by e-mail or other forms of electronic communication (such as bulletin board systems, news groups and chat groups) or displayed on or stored in the computer resources. Any such material received by electronic transmission from a source outside of the city should be deleted immediately.

Misuse of Software

The city purchases and licenses the use of various computer software programs. Without prior authorization and proper licensing, employees may not do any of the following: a) copy software for use on their home computers; (b) provide copies of software to any third person; (c) install software or hardware on any city computer resources; (d) download any software from the internet or other online service to any city computer resources; (e) modify, revise, transform, recast or adapt any software on any computer resources.

Compliance with Laws and Licenses

In their use of computer resources, employees must comply with all software licenses and copyrights and all state, federal and international laws governing intellectual property and online activities.

Communication of Confidential Information

Unless expressly authorized by the city, sending, transmitting or otherwise disseminating confidential information is strictly prohibited.

Use of Encryption Software

Employees may not install or use encryption software on any city computers without first obtaining written permission from the mayor.

Monitoring Usage

The city may monitor any and all aspects of the use of computer resources. The circumstances under which monitoring of computer resources may occur includes: monitoring sites visited by employees on the internet, monitoring chat groups and news-groups, reviewing material downloaded or uploaded by employees to the internet, and reviewing e-mail sent and received by others. Employee violations of any of the provisions outlined in this policy may subject employee to disciplinary action.

Public Records

All correspondence sent and/or received by employees related to city business is public record under the Tennessee Public Records Act and may be subject to public inspection under the law.

M. SOCIAL MEDIA USE AND INTERNET POSTING

Policy statement:

This policy applies to every employee currently employed by the City in any capacity who posts any material whether written, audio, video or otherwise on any website, mobile device application, blog or any other medium accessible via the Internet. Use of the city's social media to support or oppose individual political candidates, political parties, or any ballot measure is strictly prohibited.

For purposes of this policy, social media is content created by individuals using accessible and scalable technologies through the internet. Examples of social media include but are not limited to: Facebook, blogs, RSS, YouTube, Twitter, LinkedIn, discussion forums, and online collaborative information and publishing systems that are accessible to internal and external audiences (i.e. wikis, including Wikipedia).

Employees shall abide by the terms of use and rules and guidelines of each individual social media platform utilized. By posting on the City sites, an employee may be granting to the City an irrevocable, perpetual, non-exclusive license to use and distribute content for any purpose, commercial, advertising, or otherwise. Employees who violate the terms of this policy are subject to discipline up to and including termination.

City owned or created social media:

The City maintains an online presence. The provisions of this section apply to City employees posting content in an official capacity on a City owned or created social media platform or on any other platform. Unless authorized, an employee may not characterize him or herself as representing the City directly or indirectly.

All City social media sites and platforms representing the City in an official capacity must be created pursuant to this policy and be approved by the City Council. Accounts and pages should, where possible, feature the official City name and logo.

The City maintains a primary and predominant internet presence defined by the City Council, and no other website, blog or social media site shall characterize itself as such. Whenever possible a social media site or platform shall link or otherwise refer visitors to the City's main website. The Mayor, or designee, shall coordinate the upkeep of content on social media sites or platforms created pursuant to this policy.

All City social media sites and platforms are subject to the Tennessee's Public Records Act (T.C.A. § 10-7-101, et seq.), and no social media site or platform shall be used to circumvent or otherwise violate this law. All lawful records requests for information contained on a City social media site or platform shall be directed to the City Recorder and will be fulfilled by any employee whose assistance is necessitated. All official postings on a City social media site or platform shall be preserved to the extent possible in each platform in accordance with any applicable retention policy.

A social media site or platform shall also contain a clear and conspicuous statement that the purpose of the site or platform is to serve as a mechanism for communication between the City and its citizens/customers and that all postings are subject to review and deletion by the City, to the extent permitted by law. City social media sites and platforms shall include a disclaimer notifying the public that their images may be captured and included on the sites and platforms.

The following content is not allowed and will be immediately removed and may subject the poster to banishment from all City social media sites and platforms:

- a. Profane language or content;
- b. Obscene images;
- c. Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law, creed, or status with regard to public assistance;
- d. Sexual content or links to sexual content;
- e. Solicitations of commerce;
- f. Illegal conduct or encouragement of such;
- g. Content that incites violence or harassment;
- h. Links to third party sites and platforms; or
- i. Content that violates a legal ownership interest of any other party.

Administration of City’s social media sites and platforms:

- a. The City Recorder, or designee, will maintain an authorized site/platform list of all city social media sites and platforms, including login and password information. When a new City social media site or platform is created, the employee that is authorized to create the site or platform will notify the City Recorder for purposes of inclusion of the site or platform on the authorized site/platform list.
- b. The City must be able to immediately edit or remove content posted by staff serving as administrators for City social media sites and platforms.

Rights and permissions must be secured before posting, sharing or distributing copyrighted materials, including but not limited to: music, art, copyrighted photographs or texts, portions of copyrighted video, or information considered proprietary by a City employee, vendor, affiliate or contractor. Authorized employees must secure written permission prior to using/incorporating any copyrighted or proprietary materials except when such material is covered under Fair Use provisions.

An employee must not post content on City sites and platforms that might be embarrassing to an individual or that could be construed as placing a customer, employee or other individual in a negative or false light. An employee must not post content that might cause someone to believe that his/her name, image, likeness or other identifying aspect of his/her identity is being used, without permission, for commercial purposes. Employees shall not post any content to the city’s social media site(s) or platform(s) for their financial gain or for the financial gain of any other person or entity. A City employee posting on a City social media site or platform shall take reasonable care not to disclose any confidential information in any posting.

Non-city social media:

This section applies to City employees posting content to non-City created social media sites and platforms in their personal capacity. Employees are prohibited from posting anything on the Internet that could be construed as an act of unlawful harassment, a threat, or other evidence of discrimination. Employees should limit their personal Internet activities to non-working hours, meal

periods and/or rest breaks. An employee may not characterize him or herself as representing the City, directly or indirectly, in any online posting unless done pursuant to a written policy of the City.

The simultaneous use of a City email address, job title, official City name, or logo in conjunction with a posting may be evidence of an attempt to represent the City in an official capacity. Other communications leading a reasonable viewer to conclude that a posting was made in an official capacity may also be deemed evidence to represent the City in an official capacity.

Any postings on non-City social media sites and platforms made in an official capacity may be subject to the Tennessee Public Records Act. A City employee posting on a non-City social media site or platform shall take reasonable care not to disclose any confidential information in any posting. When posting in a personal capacity an employee should take reasonable care to distinguish that his content is a personal expression and not that of the City.

SECTION V – BENEFITS

A. LEGAL HOLIDAYS

All offices and shops of the City of Westmoreland, except emergency and necessary operations, will be closed and employees excused from work on the following legal holidays:

New Year's Day	January 1 st
Martin Luther King Day	Third Monday of January
Good Friday	Friday before Easter
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	First Monday in September
Veteran's Day	Nov. 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Fourth Friday in November
Christmas Eve	Work day Before Christmas (observed)
Christmas Day	December 25

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, the following Monday shall be observed.

B. HOLIDAY PAY

After completion of the introductory period, holiday pay will be paid to employees for each legal holiday at the rate of eight (8) hours of straight time pay. If an employee is required to work on a holiday, the employee will receive holiday pay in the amount of eight (8) hours straight time pay, in addition to pay for actual hours worked on the holiday.

Employees eligible for holiday pay must work his/her last regular shift scheduled before a holiday and his/her first regularly scheduled shift after a holiday (unless on approved leave) in order to receive compensation for the holiday.

Holidays which occur during a vacation, sick or other leave period of any employee of the City shall not be considered as a vacation, sick or other leave.

C. ANNUAL VACATION WITH PAY

After one (1) year, a Regular Full-time employee is granted 40 hours (5 days) of annual leave. After the second year anniversary, a Regular Full-time employee is granted an additional 40 hours (5 days) of annual leave. After 10 years, a Regular Full-time employee is granted an additional 40 hours (5 days) of annual leave. The maximum amount of annual leave is 15 days. All accrued annual leave must be taken as days off or as pay before their next anniversary date. Their accumulation reverts to zero, on that anniversary date. Option: Each Employee has the option to take pay for one (1) week of vacation. If the employee is eligible for more than one (1) week of vacation and the employee opts to take pay, employee must take one (1) week off, and can be paid for the remaining week.

Vacations will be scheduled in advance for the mutual convenience of the employee and the City Government so proper adjustments can be made in the work schedules. For a full week or more of vacation leave, vacation time must be turned into the City Recorder's office at least two weeks before vacation time is to be taken. For all other vacation requests, reasonable notice should be given to the supervisor. Supervisors preparing vacation schedules will give choice of dates based on seniority of the personnel in his/her department and no employee may begin his/ her annual leave until his/her request has been approved by the supervisor. Vacation may be denied based on City business and staffing needs.

An employee who is voluntarily separated from the employment of the City, with appropriate notice, shall be paid for his/her unused annual leave on a regular pay period basis. The termination date shall coincide with last date of pay. In no event will an employee who has not completed at least (1) year of satisfactory service receive an annual leave payment.

Legal holidays falling within a vacation period are not to be counted as a day of annual leave. Employees may not borrow against future annual leave, nor transfer earned vacation leave, to another employee.

Service in the Tennessee National Guard, State Militia, or Military Reserves may be paid as annual leave at the option of the employee. Employees electing to coincide vacation with military leave shall receive full pay for the amount of specified annual leave taken.

D. SICK LEAVE

Generally, employees are permitted to use sick leave when:

1. They are incapacitated by sickness or non-job related injury, for medical, dental, or optical diagnosis and treatment.
2. Required for the necessary care for and attendance to a member of the employee's immediate family when approved by their supervisor. Sick time may be used for bereavement, upon the Mayor's approval, where bereavement leave is not applicable.

IMMEDIATE FAMILY

Spouse	Parent (Step)
Sibling (Step)	Child (Step)
Parent-in-law	Sibling-in-law
Child-in-law	Grandchild
Legal Foster Parents and Children	Grandparent

3. Exposure to a contagious disease, requiring notice from a qualified doctor, that the employee may jeopardize the health of others.

Each regular Full-time employee will accrue sick leave at the rate of one-half (1/2) day per month with no limit on the accumulation of sick days **effective after 90 days of employment.**

To prevent abuse of the sick leave privilege, the Mayor and/or supervisors may satisfy themselves that the employee is genuinely ill before authorizing sick leave. Any absence may require a doctor's certificate to return to work, and any absence in excess of two (2) consecutive work days (two consecutive work shifts for firefighters) will require a doctor's certificate to return to work, if in the opinion of the mayor such action is deemed appropriate.

Any sick leave used to fill out a day must be approved by the Mayor, or the Department Head before leaving work that day. It will not be approved the next day. Anyone caught using sick leave for any purpose other than stated above will be in violation of these personnel policies and procedures.

Each day deducted from an employee's sick leave accumulation shall be only on a regular work day and shall not include holidays and scheduled off days. Sick leave is to be used in no smaller than one (1) hour increments. Employees claiming sick leave while on annual leave may support their claim with a doctor's statement. When an employee is on "leave without pay" for 15 days during any calendar month no sick leave will accumulate.

Eight (8) hours absence from work while sick will constitute a charge of one day of sick leave for an employee.

As long as an employee is on paid leave during a month, the City will continue health insurance for that month. Once an employee must be placed on unpaid leave, the employee will be offered COBRA continuation of coverage at the first of the subsequent month.

After an employee is absent from work due to illness for ninety (90) consecutive days, he/she may be placed on special leave without pay, or he/she may be terminated if unable to perform the essential functions of their job with or without a reasonable accommodation. Should he/she be able later to return to work, upon presentation of certification by a doctor verifying that the employee can perform the essential functions of the position, he/she shall be given preference for employment to a position for which he/she is qualified with the approval of the City Council.

Employees may not borrow against future sick leave, but shall be allowed to transfer earned sick leave to another employee when an employee's special need arises. Such transfers must be approved in each case by the Mayor. An employee, upon exhausting all accumulated sick leave, shall use accumulated annual leave, and then may be eligible to take leave without pay.

Sick leave is not paid out upon separation from employment except as specified for qualified, and eligible retiring* employees under the official retirement system adopted by the City of Westmoreland.

**An employee who was hired on, or prior to, the adoption date of this policy, at the time of retirement, may choose at his/her option to be paid for all accumulated unused sick leave not used at his/her regular rate of pay, or for hours to be calculated for service credit. For employees hired after the date of adoption of this policy, all sick days accumulated during employee's tenure shall be added to his/her years of service for the purpose of calculating any retirement benefits upon reaching retirement eligibility.*

E. SPECIAL LEAVE WITHOUT PAY

Special leave is defined as time off from regular work which can be granted without pay at the discretion of the Mayor. Special leave without pay may be granted for a period not to exceed thirty (30) calendar days within a twelve (12) month period for sickness, maternity, disability, or for other good and sufficient reason. Such leave shall require the prior approval of the Mayor. An employee on special leave without pay shall not accrue sick leave. Special leave extensions may be considered if deemed to present a reasonable accommodation under the ADA.

Special leave without pay may only be considered once all forms of paid leave have been exhausted. Every application for special leave must be accompanied by a complete explanation of the reason for absence.

F. MILITARY LEAVE

Any employee who is or becomes a member of the armed forces of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) and leaves work for initial training for the Guard or Reserves, leaves work to join active duty military, or is called to active duty, will be placed on military leave. Such employee must present his/her supervisor or department head with advance notice of the active duty orders. The employee's seniority, status and pay will remain unchanged during his/her time of military leave. Continued health insurance coverage will be offered up to 24 months, with the employee paying premiums due for such policy. An employee wishing to continue health insurance coverage during his/her military leave shall provide a mailing address where notices of premium payments due may be sent.

The process for reinstatement of employees returning from military leave begins when the employee submits an "application for re-employment." Said application must be submitted within ninety (90) days of the end of service, or from the end of hospitalization continuing after discharge for a period of not more than one (1) year for an injury/illness related to deployment.

The returning employee will be re-employed in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

G. MILITARY RESERVE DUTY LEAVE

Any employee who is member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days (160 hours) in any one (1) calendar year.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees serving in the National Guard or Military Reserve will receive full compensation for a period of twenty (20) days (or 160 hours) of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged

to any form of accrued paid leave. An employee requesting military leave shall provide the city the dates for training and travel time in advance. After the twenty (20) working days (or 160 hours) of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee army and air national guard, may use up to five (5) days of sick leave in lieu of vacation leave for the purposes of not having to take leave without pay.

Active State Duty: Army/Air National Guard and TN State Guard, Civil Air Patrol

In addition to the leave of absence provided above, employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Pursuant to T.C.A. § 42-7-102, members of the United States air force auxiliary civil air patrol who participate in a training program for the civil air patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to make arrangements with their department head for leave to attend monthly meetings on regular off-time, with the expectation that the paid leave granted herein will be applied to the annual training periods required for reservists.

H. JURY SERVICE LEAVE

Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he/she shall be expected to return to his/her department. An employee will receive full pay from the City during jury service.

I. FUNERAL/BEREAVEMENT LEAVE

Employee receives one (1) funeral leave day for the following: Aunt, Uncle, Grandfather-in-law, Grandmother-in-law

Employee receives three (3) days funeral leave for:

Children	Spouse	Parents	Mother-in-law
Father-in-law	Step Parents	Step Children	Grandfather
Grandmother	Brother	Brother-in-law	Sister
Sister-in-law	Grandchildren	Daughter-in-law	Son-in-law

J. FAMILY MEDICAL LEAVE POLICY

The Family and Medical Leave policy is applicable to both male and female employees who have worked at least twelve (12) months for the Town of Westmoreland and who have worked at least one thousand two hundred fifty (1,250) hours during the preceding twelve month period.

An eligible employee may take up to 12 weeks of leave, using a combination of paid and unpaid leave, in a 12 month period for the birth and care of a child or the placement and care of a child for adoption or foster care. Leave may also be taken to care for the employee, a child, spouse, or a parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible.

An expectant mother may take unpaid Family and Medical leave upon the birth of the child, or prior to the child's birth, for necessary medical care and if her condition renders her unable to work. Similarly, adoption or foster care leave may be taken upon the placement of the child. Leave may begin prior to the placement if absence from work is required for the placement to proceed.

An employee may take leave, either paid or unpaid, to care for a parent or spouse of any age who, because of a serious mental or physical condition, is in the hospital or other health care facility. An employee may also take leave to care for a spouse or parent of any age who is unable to care for his/her own basic hygiene, nutritional needs, or safety.

An eligible employee who is unable to perform the functions of his/her position because of a serious health condition may request up to 12 weeks of paid or unpaid leave. The term "serious health condition" is intended to cover conditions or illnesses that affect the employee's health to the extent that he/she must be absent from work for treatment or recovery on a recurring basis or for more than a few days.

Eligible employees requesting medical leave due to their own illness or injury shall use any accumulated sick leave, annual leave, or holidays prior to beginning unpaid leave. The combination of annual leave, holidays, sick leave, and unpaid leave may not exceed 12 weeks. During periods of unpaid leave, an employee will not accrue any additional seniority or similar employment benefits.

If spouses are both employed by the Town of Westmoreland and wish to take leave for the care of a new child or a sick parent, their aggregate leave is limited to 12 weeks.

Right to Return to Work:

On return from a FMLA leave, an employee is entitled to be returned to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA.

Notification and Scheduling:

An eligible employee must provide the employer at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30 day advance

notice is not required in cases of medical emergency or other unforeseen events, such as premature birth or sudden changes in a patient's condition that require altering scheduled medical treatment. It is the City's responsibility to designate as FMLA leave in writing and to notify the employee. Employees may not retroactively claim that a leave was for FMLA.

Certification:

The employer reserves the right to verify an employee's request for family medical leave. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the Town will require that the request be supported by certification from a health care provider of either the eligible employee or the family member, as appropriate. If the employer has reason to question the original certification, the Town may, at its' expense, require a second opinion from a different health care provider chosen by the employer. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

The certification must contain the date on which the serious health condition began, its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the child, spouse, or parent and must include an estimate of the amount of time the employee is needed to care for the family member. Medical certifications will be treated as confidential and privileged information.

The employee will be required to report periodically to the Town the status and the intention of the employee to return to work. Before return is granted, employees who have taken unpaid leave under this policy must furnish the Town with a medical certification from the employee's health care provider that the employee is able to return to work.

Maintenance of Health and COBRA Benefits During Unpaid Leave:

The City will maintain health insurance benefits, paid by the employer for the employee, during periods of unpaid leave without interruption. Any payment for family coverage premiums or other payroll deductible insurance policies must be paid by the employee or the benefits will not be continued.

The City has the right to recover from the employee all health insurance premiums paid during the unpaid leave period if the employee fails to return to work after leave. Employees who fail to return to work because they are unable to perform the functions of their job because of their own serious health condition or because of continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

Leave under this policy does not constitute a qualifying event that entitles an employee to COBRA insurance coverage. However, a qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. Upon the occurrence of such a COBRA qualifying event the employee ceases to be entitled to leave under this policy.

Reduced and Intermittent Leave:

According to this policy, leave can be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. The schedule must be mutually agreed upon by the employee and the City of Westmoreland.

The 12 month FMLA Period:

The 12 month period during which an employee is entitled to 12 workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to

12 weeks of leave during the 12 month period after the leave begins. The next 12 month period will begin the first time the employee requests a FMLA leave after the completion of the previous 12 month period.

Denial of FMLA Leave:

If an employee fails to give timely advance notice when the need for a FMLA leave is foreseeable, the City may delay the taking of an FMLA leave until 30 days after the date the employee provides notice to the City of the need for such leave.

If an employee fails to provide in a timely manner a requested medical certification to substantiate the continued need for a FMLA leave due to a serious health condition, the City may delay continuation of an FMLA leave until an employee submits the certificate. If the employee does not produce the certification, the leave is not FMLA leave.

K. DEATH OF AN EMPLOYEE

Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check, plus earned vacation pay. Further, his/her beneficiary shall be given complete assistance by the Mayor in settling pension, life and hospital insurance benefits, and all other compensation due in accordance with these policies and procedures.

L. HOSPITALIZATION INSURANCE

Employees of the City of Westmoreland are covered under a hospitalization policy as selected by the City Council. The percentage of the City's participation, in the premium of the policy, shall be set by the City Council. Refer to the Benefits Summary available at the City Recorder's Office for further detail.

M. LIFE INSURANCE

City employees are covered under a life insurance policy as selected by the City Council. The percentage of the City's participation in the premium of the policy, shall be set by the City Council.

N. DISABILITY INSURANCE

The City Council may choose to offer disability insurance, dependent upon budgetary constraints, or may authorize approved providers to offer voluntary disability coverage to employees.

O. TENNESSEE CONSOLIDATED RETIREMENT SYSTEM (TCRS)

After six (6) months of employment, employees will be enrolled in TCRS. The City will contribute to TCRS in the amount adopted by the City Council. For further detail, contact the City Recorder's Office.

P. WORKERS COMPENSATION

All injuries arising out of and in the course and scope of an individual's employment with the City of Westmoreland shall be governed by the Tennessee Worker's Compensation Law. Employees on occupational disability leave due to an on-the-job injury will not be charged, or allowed to

supplement workers' comp pay with, sick leave or annual leave during the period of convalescence. The employee shall continue to accrue sick leave at the employee's regular rate while he/she is on occupational disability or injury leave.

Employees shall report immediately any injury incurred in the course of their employment, however minor, to their supervisor and take such first aid or medical treatment as necessary. Any employee determined to have been able, but who fails, to make such a report shall not be eligible for occupational disability or injury leave.

When an employee is injured on the job, the City Recorder shall immediately submit an accident report to the City's Insurance Carrier and retain a copy in the OSHA file. Where an accident causes serious bodily injury or death to an employee, the supervisor shall immediately notify the City Recorder.

Q. AMERICANS WITH DISABILITIES ACT

Purpose

The purpose of this policy is to provide a policy in compliance with 42 U.S.C. 12101 et. seq.: The Americans with Disabilities Act (ADA) as amended. The city is committed to the fair and equal employment of individuals with disabilities under the ADA. It is the city's policy to provide reasonable accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the city. The city prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested a reasonable accommodation.

In accordance with the ADA, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

Eligibility

The ADA policy applies to any qualified individual with a disability who can perform the essential functions of the job with, or without, a reasonable accommodation.

Disability

"Disability" refers to a physical or mental impairment that substantially limits one or more major life activities. A "qualified person with a disability" means an individual with a disability who has the requisite skills, experience, and education for the job in question, and who can perform the essential functions of the job with or without reasonable accommodation.

Reasonable Accommodation

The city will seek to provide a reasonable accommodation for a known disability or at the request of an individual with a disability. A "reasonable accommodation" is any change or adjustment to the job application process, work environment, or work processes that would make it possible for the individual with a disability to perform the essential functions of the job and does not place undue hardship on the city.

Essential Job Functions

For each position, the job description typically will identify essential job functions. The mayor generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An applicant's or employee's questions about a job's requirements should be directed to the mayor.

Requesting a Reasonable Accommodation

An applicant or employee with a disability is responsible for requesting an accommodation from the mayor, or his or her designee, and engaging in an informal process to clarify what the applicant or employee needs and to identify possible accommodations. The city will inform the applicant or employee of his/her rights under the ADA and document the interactive process discussions. An applicant or employee may be required to provide documentation from an appropriate professional, such as a doctor or a rehabilitation counsellor, concerning the applicant's disability and functional limitations. If an applicant or employee disagrees with the result of the medical examination, the applicant or employee may request a second examination performed and paid for by the applicant or employee. In the event of a disagreement in the two previous medical opinions, a third opinion may be obtained with both parties sharing the cost of the examination.

The applicant or employee should describe the problem created by a workplace barrier so that an appropriate accommodation may be considered. Typically, the mayor will work with the applicant or employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the applicant or employee to complete the hiring process or perform the essential functions of the job.

Based on this interactive process, a reasonable accommodation will be selected that is appropriate for both the city and the individual. While an individual's preference will be considered, the city is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the city. The mayor will provide notification in writing of denial based on undue hardship. Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization's overall financial resources, the financial resources of the particular facility at which the accommodation is to be made, the number of employees at the facility, the total number of employees of the organization, and the type of operation.

Safety

All employees are expected to comply with all safety procedures. The City will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A "direct threat" means a significant risk to the health or safety of one's self or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the mayor and will be based on factual, objective evidence. A written copy of the determination will be given to the applicant or employee so that he or she may submit additional information and/or challenge the determination that he or she poses a direct threat.

Confidentiality

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

Complaint Procedure

It is the policy of the city to prohibit any harassment of, or discriminatory treatment of, applicants or employees on the basis of a disability for requesting a reasonable accommodation. If an individual feels he or she has been subject to such treatment or has witnessed such treatment, the situation may be reported to any supervisory employee of the city, including the mayor.

The city's policy prohibits retaliation against an applicant or employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an applicant or employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an applicant or employee feels he or she has been retaliated against, the situation may be reported to any supervisory employee of the city, the mayor, or a member of the City Council.

R. Bonus: (Subject to withholding)

In December, full time employees will receive \$ 100.00 bonus

In December, part-time employees that work a regular shift each week will receive a \$ 25.00 bonus.

S. Longevity Pay: (Subject to withholding)

Each employee that has been employed for at least ten (10) years, will receive a longevity bonus of \$ 25.00 per year of employment. This is given during the first week of December each year.

SECTION VI – MISCELLANEOUS POLICIES

A. SOLICITATION

The City believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, solicitation shall be limited to as few visits as necessary during the course of the year.

B. PERSONAL TELEPHONE CALLS

The use of the office telephone during regular work hours for local and/or long distance calls of a personal nature, except in emergency cases, is discouraged.

C. POLITICAL ACTIVITY

City employees, whether on or off duty, whether in or out of uniform, and whether on or off city property, shall not, at any time or any place, become a candidate for an elected city office. The city will not compensate employees for time when the employee is not performing work for the city. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the city. All political activity shall be reserved for non-working time.

In all other elections for public office, employees may enjoy the rights of any other citizen of the state of Tennessee to be a candidate for any local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. The city will not compensate employees for time when the employee is not performing work for the city. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the city.

D. PERSONNEL RECORDS

Personnel records for each employee are kept on file and maintained by the payroll clerk, and are subject to the Tennessee Open Records Act, as applicable. Any change of address, telephone number, marital status, draft status, number of dependents, or education completed should be turned in to an employee's supervisor for transmittal to the payroll clerk.

The payroll clerk also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. The payroll clerk will advise employees through their supervisor of their eligibility so that they may take full advantage of all the benefits available.

Employees may have access to and review their own Personnel files during normal business hours. If the employee disagrees with any information found therein, the employee may submit a written disagreement to the mayor, which will be attached to the specific document in the file(s). Contents

of employee files may not be removed. An employee desiring to access the Personnel file of another employee must follow the procedures for public records requests.

E. STATEMENT OF UNDERSTANDING

Each employee shall sign a statement (Acknowledgement of Receipt) that he/she has read and understands the Personnel Policy of the City of Westmoreland. Said statement is to be placed in the employee's personnel file.

F. MORNING AND AFTERNOON BREAK

Employees may, depending upon work needs, be given two fifteen (15) minute paid breaks per eight (8) hour shift. Breaks shall not occur concurrently, nor be added to the unpaid lunch period. If a break time occurs and the employee is on a job site, that break shall be taken at that job site. If an employee is involved with and/or working on an emergency situation during the scheduled break time(s), then that break time(s) may be rescheduled with the employee's supervisor.

G. FIGHTING, HORSEPLAY, DAMAGING CITY PROPERTY

Fighting, horseplay, and intentionally defacing or damaging City property is not permitted. Employees engaging in these activities will be subject to disciplinary action up to and including discharge.

H. DEDUCTIONS FROM PAY

By law, the City is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee's pay. The following deductions will be made:

1. Federal Income Tax – Federal taxes are withheld from employees' paychecks based on the number of dependents claimed by each individual. Employees are required to file with the city a copy of the W-4 form. In the event of changes in the employee's exemption status, a revised W-4 form must be filed before payroll deduction adjustments will be made.
2. Social Security – Social Security payments and deductions will be made according to the Social Security Act. The city recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.
3. Others – Other authorized deductions will be made from an employee's pay with either the employee's signed consent or pursuant to a valid court order.
 - a. health/hospitalization insurance (medical service premiums),
 - b. life insurance,
 - c. dental insurance,
 - d. vision insurance,
 - e. deferred compensation payments,
 - f. credit union payments,
 - g. pension plan,
 - h. supplemental insurance approved by the city,
 - i. child support or other garnishments*

- j. charity contributions approved by the city, and
- k. cost of uniforms, safety footwear, and other applicable equipment during employment or upon failure to return such upon separation as allowed by state law and the FLSA**. The City provides uniforms for: Police, Water, Sewer, Sanitation, Streets, and Public Works – wearing of uniforms is mandatory.

*An employee who is garnished for more than one indebtedness within a 12-month period may be subject to disciplinary action in accordance with the Consumer Credit Protection Act (15 USC, Ch. 41); except for assignment(s) of wages for spousal or child support (T.C.A. 36-5-501 (c)(2)(i)).

** the City may deduct from an employee’s final paycheck any amount due (on a depreciated/prorated basis) for failure to return city property as long as the deduction(s) do not reduce final pay to below minimum wage.

I. TRIP APPROVAL

All out-of-city meetings, in-service training, conventions and etc. which are to be attended by employees of the City shall have prior written approval by the Mayor. Failure to receive said prior written approval can result in loss of pay for that amount of time expended on the trip and/or loss of expense reimbursement.

J. TRIP REIMBURSEMENT

All trips that involve reimbursement and/or City expense shall not be undertaken without prior approval of the Mayor. Mileage shall be reimbursed at the current “IRS rate” for mileage. Food reimbursement shall be at a rate set by the City Council. Any additional expense shall be approved by the Mayor.

K. USE OF CITY VEHICLES AND EQUIPMENT

All City vehicles and equipment are for official use only. Drivers and/or operators must have a valid Drivers’ License and be approved by their supervisor or the Mayor.

L. STRIKES AND UNIONS

While employees have the right to join labor organizations, all union activity is to be conducted off city property and outside working hours. City equipment and materials are not to be to conduct union business. No employee of the city shall be a party to, participate in, or instigate a strike against the city.

M. WORKPLACE VIOLENCE AND HARASSMENT POLICY

General Harassment and Violence:

The City is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of the City to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the City’s activities. Employees and customers are to be treated with courtesy and respect at all times.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of bullying or harassment will be tolerated, including sexual harassment and harassment based on race, color, religion, gender or gender identity, age, national origin, disability, military status, genetic information, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, or any other basis protected by law. This policy applies to all City employees, elected officials, appointed officials, regular part time/temporary employees, and contractors. The governing body may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the municipal charter, ordinances, resolutions or other rules governing discipline of elected officials.

The City will not tolerate bullying, or verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment.

1. No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:
 - a. Verbal harassment – Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive flirtations or propositions; verbal intimidation; exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.
 - b. Physical Harassment – Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
 - c. Visual Harassment – Displaying derogatory or offensive posters, cartoons, publications or drawings.
 - d. Bullying – Workplace bullying refers to unwanted aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The imbalance of power involves the use of physical strength, access to embarrassing information, or popularity to control or harm others. This behavior may be performed by individuals (or a group) directed towards an individual (or a group of individuals).
2. Under no circumstances are the following items permitted on City property, including City-owned parking areas, except when issued or sanctioned by the City for use in the performance of the employee's job:
 - a. dangerous chemicals;
 - b. explosives or blasting caps;
 - c. other objects carried for the purposes of injury or intimidation.
3. Investigation timelines will comply with those outlined in the City disciplinary processes, as applicable.
4. Copies of the investigative report with recommendations for appropriate action will be turned over to the Mayor as appropriate for further action.
5. Anyone determined to be responsible for threats of, or actual violence, or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

6. Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors, or the Mayor before the situation escalates into potential violence. The City is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion.
7. Employees are prohibited from interfering or attempting to interfere with any departmental investigation.
8. False allegations will be dealt with on a case by case basis, and depending on the outcome, may include disciplinary action, up to and including termination.

The City will not tolerate harassment of its employees. The City will take immediate steps to stop such harassment when it occurs.

This policy applies to all officers and employees of the City including, but not limited to: full and regular part time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the personnel rules or regulations, and employees working under contract for the City.

Sexual Harassment:

The following actions constitute an unlawful employment practice and are absolutely prohibited by the City when they affect employment decisions, create a hostile work environment, cause distractions, or unreasonably interfere with work performance. They are:

1. Sexual harassment or unwelcome sexual advances;
2. Requests for sexual favors;
3. Verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. Explicit or implied job threats or promises in return for submission to sexual favors;
5. Inappropriate sexually-oriented comments on appearance;
6. sexually-oriented stories;
7. Displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. Sexual assault on the job by supervisors, fellow employees, or non-employees
9. Demeaning insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, and internet materials).

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

Making harassment complaints:

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Any number of individuals may be chosen. The object is to give several options to a harassment victim. Complaints may be made orally or in writing to:

- a. The employee's immediate supervisor.
- b. The employee's department head.
- c. The City's Recorder.
- d. The Mayor.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint of sexual harassment. Regardless to which of the above persons the employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:

- a. Official's or employee's name, department, and position title.
- b. The name of the person or persons committing the sexual harassment, including their title/s, if known.
- c. The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.
- d. Witnesses to the harassment.
- e. Whether the employee has previously reported the harassment and, if so, when and to whom.

Reporting and investigating of harassment complaints:

The Mayor is the person designated by the City to be the investigator of complaints of harassment against employees. In the event the harassment complaint is against the Mayor, the investigator shall be the City Attorney.

When an allegation of harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the Mayor, or to the City Council in the case of a complaint against the Mayor.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made by the person complaining of harassment, witnesses interviewed during the investigation, the person against whom the complaint of harassment was made, and any other person contacted in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Upon conclusion of the investigation, the investigator shall prepare a report of the findings. The report shall include the written statement for the person complaining of harassment, the written statement of witnesses, the written statement of the person against whom the complaint of harassment was made, and all the investigator's notes connected to the investigation.

Action on complaints of harassment:

Based upon the report, the Mayor or the City Council, the case of the Mayor, shall within a reasonable time, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes harassment. In making that determination, they shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether harassment occurred will be made on a case-by-case basis.

If the Mayor, or the City Council determine that the complaint of harassment is founded, they shall take immediate and appropriate disciplinary action against the employee guilty of harassment,

consistent with their authority under the municipal charter, ordinances or rules governing their authority to discipline employees. If the Mayor feels that disciplinary action stronger than he/she is authorized to impose by the charter, ordinances, resolutions or rules governing employee discipline is warranted, he/she shall make that determination known to the City Council of the City of Westmoreland, together with the report of the investigation. If the City Council determine that the complaint of harassment was founded, it may discipline the employee consistent with its authority under the municipal charter, ordinances, resolutions or rules governing employee discipline.

The disciplinary action shall be consistent with the nature and severity of the offense, the rank of employee, and any other factors the Mayor or City Council believes relate to fair and efficient administration of the City, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the municipality. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.

A written record of disciplinary actions taken shall be kept, including verbal reprimands. In all events, an employee found guilty of harassment shall be warned not to retaliate in any way against the person making the complaint of harassment, witnesses or any other person connected with the investigation of the complaint of harassment.

In cases where the harassment is committed by a non-employee against a City employee in the work-place, the Mayor shall take whatever lawful action against the non-employee is necessary to bring the harassment to an immediate end.

Obligation of employee:

An employee is not only encouraged to report instances of harassment, they are obligated to report them. Employees are also obligated to cooperate with every investigation of harassment. The obligation includes, but is not necessarily limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully making written reports or verbally answering questions when required to do so by an investigator. Employees are also obligated to refrain from making bad faith accusations of harassment.

Disciplinary action may also be taken against any employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith.

N. NARCOTICS AND INTOXICATING LIQUORS

Purpose of drug testing program:

- a. The City of Westmoreland has a legal responsibility and management obligation to ensure a safe work environment, as well as a paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.
- b. The City and its employees may be subject to liabilities if the City fails to address and ensure that employees can perform their duties without endangering themselves or the public.

- c. There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the Municipality is a crime in this jurisdiction and clearly unacceptable.

Therefore, the City of Westmoreland has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; and to notify employees that testing is a requirement of employment.

In order to educate employees about the dangers of drug and/or Alcohol abuse, the City shall provide, upon hire or upon promotion to a supervisory position, an information and education program for all employees and supervisors. Each employee will be required annually following initial training to acknowledge in writing the City's Drug Free Workplace Policy.

General rules:

- a. City employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician. Employees who are required to take prescription medicine and/or over-the-counter medications, and the medications may potentially impact work safety, shall notify his/her immediate supervisors of the medication prescribed and the nature of the illness or injury before the employee goes on duty.
- b. City employees are prohibited from the use, manufacture, distribution, unauthorized possession, and sale of illegal drugs at any time, or any other controlled substance; and alcohol while on duty on City property or in the City vehicles.
- c. All property belonging to the Municipality is subject to inspection at any time without notice as there is not expectation of privacy.
 - 1. Property includes, but is not limited to, vehicles desks, containers, files and storage lockers.
 - 2. Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's supervisor after reasonable advance notice (unless waived by the Mayor) and in the presence of the employee.
- d. City employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to the supervisor.
- e. Any employee convicted of violating a criminal drug statute shall inform his/her department head of such conviction (including pleas of guilty and nolo contendere) within five (5) days of the conviction occurring. Failure to inform the City subjects the employee to disciplinary action up to and including termination for the first offense.

- f. Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or an employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.
- g. Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty.
- h. Use of alcohol or drugs within eight hours following an accident/incident if the employee's involvement has not been discounted as a contributing factor in the accident/incident or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties.

Prior notice of testing policy:

The City shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

The need for drug and alcohol testing:

- a. The circumstances under which testing may be required;
- b. The procedures for confirming an initial positive test result;
- c. The consequences of a confirmed positive test result;
- d. The consequences of refusing to undergo a drug and alcohol test;
- e. The right to explain a positive test result and the appeal procedures available; and,
- f. The availability of drug abuse counseling and referral services.

Consent:

Before a drug and/or alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, Medical Review Officer (MRO), and the Mayor or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.

The consent form shall also set forth the following information:

- a. the procedure for confirming an initial positive test result;
- b. the consequences of a confirmed positive test result;
- c. the right to explain a confirmed positive test result and the appeal procedures available; and,
- d. the consequences of refusing to undergo a drug and alcohol test.

The consent form also provides authorization for certified or licensed medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

Drugs to be tested for:

When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the following drug groups. This list is not intended as an exhaustive inventory of every drug to possibly be tested for. The selection of drugs to be tested for will be based upon known abuse in the community and the ability of each drug to affect job performance. All drug results will be reported to the Medical Review Officer (MRO). If verified by the MRO, they will be reported to the Mayor.

- a. Alcohol (ethyl)
- b. Amphetamines (e.g. speed)
- c. Barbiturates (e.g. Amobarbital, Butabarbital, Phenobarbital, Secobarbital)
- d. Cocaine
- e. Methaqualone (e.g. Quaalude)
- f. Opiates (e.g. Codeine, Heroin, Morphine, Hydromorphone, Hydroconone)
- g. Phencyclidine (PCP)
- h. THC (Marijuana)

The City may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

Job applicant testing: general standard:

Applicants for all classes of employment with the City will be required to undergo a drug and alcohol test after a conditional offer of employment and prior to their final appointment.

Current employee testing: general standard:

All employees occupying safety sensitive positions with the City shall be subject to random selection drug testing each calendar year.

The City may require a current City employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during working hours. "Reasonable suspicion" means an articulate belief based on specific facts and reasonable inferences drawn from those facts that an employee is under the influence of drugs or alcohol. Circumstances that constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

- a. A pattern of abnormal or erratic behavior;
- b. Information provided by a reliable and credible source;
- c. A work-related accident;
- d. Direct observation of drug or alcohol use; or

- e. Presence of the physical symptoms of drug or alcohol use (i.e. glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and or reflexes).

Supervisors are required to detail in writing the specific facts, symptoms, or observations that formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee. This documentation shall be forwarded to the appropriate department head or designated alternate.

Refusal to consent: Applicant:

A job applicant who refuses to consent to a drug and alcohol test will be denied employment with the City.

Refusal to consent: Employees:

An employee who refuses to consent to a drug and alcohol test is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action. Refusing to submit to an alcohol or drug test means that an employee 1) fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with the provisions of this policy; 2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with this policy; or 3) engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the City indicating a refusal to test.

Types of drug and alcohol tests:

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug and/or alcohol testing under six separate conditions:

Pre-employment:

All applicants for employee status who have received a conditional offer of employment with the City of Westmoreland must take a drug and alcohol test before receiving a final offer of employment.

Transfer:

Employees transferring to a safety sensitive position or a position that requires a CDL license shall undergo drug and alcohol testing.

Post-Accident/Post-Incident Testing:

Following any workplace accident/incident determined by supervisory personnel of the City to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident/ incident or cannot be discounted as a contributing factor to the accident/incident and who is reasonably suspected of possible drug or alcohol use as determined during a routine post-accident/post-incident investigation or who receives a citation for

a moving violation arising from the accident will be required to take a post-accident/post-incident drug and/or alcohol test.

Post-accident/post-incident testing shall be carried out within two hours following the accident/incident.

Post-Accident/Post-Incident: Testing for Ambulatory Employees:

Following all workplace accidents/incidents where drug or alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City to the designated testing site for a breath alcohol test and/or a drug test within two hours following the accident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the designated test site within two hours. No employee shall consume alcohol prior to completing the post-accident/post-incident testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/post-incident testing. Any unreasonable delay in appearing for drug and/or alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City and shall result in administrative action up to and including termination of employment.

Post-Accident/Post-Incident Testing for Injured Employees:

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for drug and/or alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the Medical Review Officer (MRO) of the City appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol and/or drugs (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City or upon hiring following the implementation date.

Post-accident/post-incident breath alcohol and/or urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed, appropriate specimens to determine if alcohol and/or drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident/post-incident testing within two hours must be fully documented by the attending medical personnel.

Testing Based on Reasonable Suspicion:

Drug and/or alcohol testing is required for each employee where there is Reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs.

The decision to test for reasonable suspicion must be based on a reasonable and articulated belief that the employee is using or has used alcohol and/or drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol and/or drug use. One supervisor who has received alcohol detection and/or drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City making a determination to subject any employee to alcohol and/or drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Mayor within eight hours of the decision to test and before the results of the tests are received by the department.

Random Testing:

Safety sensitive employees of the City may be subject to random testing for controlled substances and alcohol. Random testing will be done on a percentage basis as determined by the random selection requirements for the position the employee is employed in.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random testing and the actual presentation for testing. Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of city, work-related causes, etc.) to be tested on the date random testing occurs, the City may omit that employee from that random testing or await the employee's return to work.

Voluntary Disclosure, Return-to-Duty and Follow-Up:

In the event that a regular, full time employee of the City is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the Mayor in private.

Such voluntary desire for help with a substance abuse problem may be honored by the City. If substance abuse treatment is required, the employee will be removed from service pending completion of the treatment. Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Affected employees of the City are entitled to up to thirty (30) consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all paid leave time available.
2. In the event accumulated paid leave time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) monitoring the employee's treatment. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The Mayor will consider each case individually and set forth final conditions of reinstatement to duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or

subsequent failure of any drug or alcohol test under this policy will result in disciplinary action up to, and including, dismissal.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City. Voluntary disclosure provisions do not apply to applicants.

Employees testing positive during drug and/or alcohol testing under this policy are subject to disciplinary action.

Drug testing collection procedures:

Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City to a drug test collection facility selected by the City of Westmoreland, where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City to perform the analysis on collected urine samples.

Drug testing laboratory standards and procedures:

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident/incident occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the specified testing site within 24 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the Mayor.

Alcohol testing procedures:

All breath alcohol testing conducted for the City shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (Note - A City's/city's own public safety department cannot do this testing unless the test is required because of a traffic accident/incident.)

Alcohol testing is to be performed by a qualified technician as follows:

Step one:

An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

Step two:

Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than 0.02 percent before returning to duty with the City.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City, when possible.

The completed breath alcohol test form shall be submitted to the Mayor.

Consequences of a confirming positive test result:

Applicants:

If an applicant's positive test result has been confirmed, the applicant will be denied employment with the City of Westmoreland.

Current employees:

If a current employee's positive test result has been confirmed, the employee is subject to immediate removal from any safety sensitive function, and the employee is subject to disciplinary action up to and including termination.

Reporting and reviewing:

The City, or third party provider, shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

1. The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City.
2. Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.
3. The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the Mayor, and the employee.
4. Neither the City of Westmoreland, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the City attorney.

SECTION VII – SEPARATIONS AND DISCIPLINARY ACTIONS

A. TYPES OF SEPARATIONS

All separations of employees from positions with the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, lay-offs, disability, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of City property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

B. RESIGNATION

In the event an employee decides to leave the City's employ, a two (2) week written notice should be given to his/her supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any/or all City equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the department head as a resignation.

If a former employee returns to City employment, their status of seniority, pay, leave, etc. will be the same as any new employee beginning work for the first time.

C. LAY-OFF

The Mayor may lay off an employee in the City service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid-off may be assigned to other employees already working who hold a similar position in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of introductory or regular employees. The order of layoff shall be based on consideration given to organizational needs, the quality of each employee's service, and finally, length of service in determining retention. For the purpose of this regulation, it is understood that upon determination that a lay off becomes necessary, a lay off plan may be implemented based on the circumstances.

D. DISABILITY

An employee may be separated for disability when he/she cannot perform the required duties of the position because of physical or mental impairment. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the Mayor. The City may require an examination at its expense and performed by a licensed physician of its choice.

E. DEATH

Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these policies and procedures shall be paid to the estate of the employee, except for such sums as by the law must be paid to the surviving spouse.

F. DISCIPLINARY ACTION

Whenever an employee’s performance, attitude, work habits or personal conduct fall below a desirable level, supervisors shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee’s past performance and conduct. The types of disciplinary actions are:

1. Oral warning
2. Written reprimand
3. Demotion
4. Suspension
5. Dismissal

G. ORAL WARNING

Whenever an employee’s performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor shall inform the employee promptly and specifically of such lapses and shall give him/her counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating further disciplinary actions. Documentation regarding the issuance of an oral warning shall be placed in the employee’s personnel file.

H. WRITTEN REPRIMAND

In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be given to the employee, and a copy shall be placed in the employee’s personnel folder.

I. DISCIPLINARY DEMOTION

A demotion of an employee is a form of disciplinary action by the City Council for a serious offense and/or multiple violations of a less serious nature where discharge is not warranted.

J. SUSPENSION

An employee may be suspended with or without pay by the City Council. The Mayor, or designee, may remove an employee from duty pending outcome investigation.

K. DISMISSAL

The City Council may dismiss an employee for good reason. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsification of records, violation of any of the provisions of the Charter, ordinances, or these policies and procedures.

L. GRIEVANCE PROCEDURES

It is the City's desire to address grievances informally. Both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances that will be resolved only after a formal meeting and a review. Employees who have a grievance may discuss it with their immediate supervisor, a higher-level supervisor, and/or the mayor. An employee shall be free from threats, coercion, intimidation, or discrimination because he/she has made complaints, testified, or assisted in any manner in the grievance procedures.

SECTION VIII – AMENDMENT OF PERSONNEL RULES

A. AMENDMENTS

Amendments or revisions of these policies and procedures may be recommended for adoption by the Mayor or members of the City Council. Such amendments or revisions of these policies and procedures shall become effective after approval by ordinance of the City Council.

B. SEVERABILITY

Each section, subsection, paragraph, sentence and clause of these policies and procedures document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other portion of these policies and procedures, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

C. SPECIAL NOTE

These personnel policies and procedures are believed to be written within the framework of the Charter of the City of Westmoreland but in case of conflict, the Charter takes precedence.

ACKNOWLEDGEMENT OF RECEIPT

The City of Westmoreland, TN Personnel Policies, Revision (**February 7, 2019**)

This is to acknowledge that I have received a copy of the City’s Policies and Procedures, and understand that it outlines certain City policies, procedures and benefits as may exist at the time of publication. I understand that it is my responsibility to familiarize myself with all information within the Policies and Procedures.

I understand that the Policies and Procedures do NOT constitute a contract of employment; rather it is merely a statement of policies and procedures. I understand that the contents of the Policies and Procedures do not confer any rights on or promises to me or guarantee my employment for any period of time. I understand that the City can alter, eliminate, or otherwise change any policy, information, or benefit described in the Policies and Procedures by action of the governing body. I understand that it is my responsibility to review the manual to observe any recent changes.

I understand that nothing in the Policies and Procedures or any summary brochure or employee handbook should be deemed to be a promise by the City to provide any benefit. Rather, the City reserves the right to alter or eliminate any benefit, without notice, at any time.

I understand that these Policies and Procedures replace (supersede) any and all prior City policies and any and all prior Policies and Procedures, employee handbooks or manuals, and any information contained in any such prior policy, handbook, or manual is no longer in effect.

I understand that my employment with the City is at will, and can be terminated by me or by the City Council at any time for any reason or no reason. Employees have no property rights to employment granted by the City of Westmoreland Charter. I understand that this at-will relationship may not be modified by any written, oral or implied promises or agreements outside of parameters provided by the City Charter. I understand that no employee has a right to continued employment by virtue of anything stated or inferred in the Policies and Procedures.

I understand and agree that the City may deduct from my final paycheck any amount due (on a depreciated/prorated basis) for failure to return City property, or pursuant to educational and training agreements executed between me and the City of Westmoreland on a proportional, prorated basis. No deductions may reduce my final pay to below minimum wage.

Employee Printed Name

Employee Signature

Date