



WHITEHALL CITY COUNCIL
AGENDA FOR COMMITTEE MEETING

Tuesday, July 22, 2025

6:30 P.M. – ADMINISTRATION/COUNCIL OF THE WHOLE MATTERS:

THERE ARE THIRTEEN PIECES OF DRAFT LEGISLATION ON THE AGENDA.

COMMITTEE OF THE WHOLE LEGISLATION/ISSUES:

ORDINANCE NO. 067-2025 (Comm. of the Whole - 2nd reading - SUSP & ADOPT 07/22/2025 -Smith/Brown)
REPEALING ORDINANCE 009-2025 FOR THE ORGANIZATION OF THE FAIRWAY CLIFFS COMMUNITY AUTHORITY, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 068-2025 (Comm. of the Whole - 2nd reading - SUSP & ADOPT 07/22/2025 -Smith/Brown)
REPEALING ORDINANCE 010-2025 FOR THE COMMUNITY REINVESTMENT AREA AGREEMENT FOR FAIRWAY CLIFFS LLC, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 069-2025 (Comm. of the Whole - 2nd reading - SUSP & ADOPT - Smith/Brown)
REPEALING ORDINANCE 011-2025 FOR THE FAIRWAY BOULEVARD TAX INCENTIVE DISTRICT, AND DECLARING AN EMERGENCY.

DRAFT # 1

RESOLUTION NO. 027-2025 (Comm. of the Whole - 1st reading -SUSP & ADOPT 07-22/2025- /)
REPEALING RESOLUTION 017-2025 WHICH PLACED THE REFERENDUM OF ORDINANCE 009-2025 ON THE NOVEMBER 4, 2025 BALLOT AND DECLARING AN EMERGENCY.

WHEREAS, on April 15, 2025, Council passed Ordinance No. 009-2025, to organize the Fairway Cliffs Community Authority, establish its boundaries and trustees, and appointing the initial members of the Authority; and

WHEREAS, a referendum petition was filed with the City Attorney seeking to submit Ordinance No. 009-2025 to the City's electors for their approval or rejection at the November 4, 2025 general election, said petition certified on May 7, 2025, by the City Attorney certified the sufficiency of the referendum petition to the Clerk of Council; and

WHEREAS, on May 20, 2025, Council passed Resolution 017-2025 directing the submission of the question approving Ordinance 009-2025 to the electors at the November 4, 2025, election; and

WHEREAS, on July 22, 2025, Council passed Ordinance 067-2025 repealing Ordinance 009-2025, and therefore submission of the adoption of the ordinance to the electors is moot; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. That Resolution 017-2025 is hereby repealed in its entirety.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to remove the question of whether Ordinance No. 009-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to withdraw the question of approving Ordinance 009-2025 from the November 4, 2025, general election ballot so as to prevent voter confusion and prevent the use of taxpayer dollars to conduct a referendum on a now repealed ordinance.

SECTION 5. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

DRAFT # 2

RESOLUTION NO. 028-2025 (Comm. of the Whole - 1st reading -SUSP & ADOPT 07-22-2025- /)

REPEALING RESOLUTION 018-2025 WHICH PLACED THE REFERENDUM OF ORDINANCE 010-2025 ON THE NOVEMBER 4, 2025 BALLOT AND DECLARING AN EMERGENCY.

WHEREAS, on April 15, 2025, Council passed Ordinance No. 010-2025, approving a community reinvestment area real property tax exemption for Fairway Cliffs LLC or its designees and authorizing the mayor to execute an infrastructure agreement with Fairway Cliffs LLC;

WHEREAS, a referendum petition was filed with the City Attorney seeking to submit Ordinance No. 010-2025 to the City's electors for their approval or rejection at the November 4, 2025 general election, said petition certified on May 7, 2025, by the City Attorney certified the sufficiency of the referendum petition to the Clerk of Council; and

WHEREAS, on May 20, 2025, Council passed Resolution 018-2025 directing the submission of the question approving Ordinance 010-2025 to the electors at the November 4, 2025, election; and

WHEREAS, on July 22, 2025, Council passed Ordinance 068-2025 repealing Ordinance 010-2025, and therefore submission of the adoption of the ordinance to the electors is moot; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. That Resolution 018-2025 is hereby repealed in its entirety.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to remove the question of whether Ordinance No. 010-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to withdraw the question of approving Ordinance 009-2025 from the November 4, 2025, general election ballot so as to prevent voter confusion and prevent the use of taxpayer dollars to conduct a referendum on a now repealed ordinance.

SECTION 5. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

Requested and prepared by: Bradley S. Nicodemus, City Attorney

Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

DRAFT # 3

RESOLUTION NO. 029-2025 (Comm. of the Whole - 1st reading -SUSP & ADOPT 07-22-2025- /)

REPEALING RESOLUTION 019-2025 WHICH PLACED THE REFERENDUM OF ORDINANCE 011-2025 ON THE NOVEMBER 4, 2025 BALLOT AND DECLARING AN EMERGENCY.

WHEREAS, on April 15, 2025, Council passed Ordinance No. 011-2025, creating the Fairway Boulevard Tax Increment Financing Incentive District, declaring improvements to the parcels within the district to be a public purpose and exempt from real property taxation, requiring the owners of the parcels to make service payments, establishing a municipal public improvement tax increment equivalent fund for the service payments, and specifying the public infrastructure improvements that benefit or serve parcels in the district;

WHEREAS, a referendum petition was filed with the City Attorney seeking to submit Ordinance No. 011-2025 to the City's electors for their approval or rejection at the November 4, 2025 general election, said petition certified on May 7, 2025, by the City Attorney certified the sufficiency of the referendum petition to the Clerk of Council; and

WHEREAS, on May 20, 2025, Council passed Resolution 019-2025 directing the submission of the question approving Ordinance 011-2025 to the electors at the November 4, 2025, election; and

WHEREAS, on July 22, 2025, Council passed Ordinance 069-2025 repealing Ordinance 011-2025, and therefore submission of the adoption of the ordinance to the electors is moot; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. That Resolution 019-2025 is hereby repealed in its entirety.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of

Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to remove the question of whether Ordinance No. 011-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to withdraw the question of approving Ordinance 009-2025 from the November 4, 2025, general election ballot so as to prevent voter confusion and prevent the use of taxpayer dollars to conduct a referendum on a now repealed ordinance.

SECTION 5. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

Requested and prepared by: Bradley S. Nicodemus, City Attorney
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

DRAFT # 4

RESOLUTION NO. 030-2025 (Comm. of the Whole - 1st reading -SUSP & ADOPT 07-22-2025- /)
REPEALING AND REPLACING RESOLUTION 017-2025, DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING ORDINANCE NO. 009-2025 TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION, AND DECLARING AN EMERGENCY.

WHEREAS, on May 20, 2025, Council approved Resolution 017-2025 placing the question of whether Ordinance 009-2025 should be adopted to the electorate; and

WHEREAS, upon review of the proposed ballot language by the County Prosecutor as legal counsel for the Board of Elections, the County Prosecutor has requested the ballot language be clarified to prevent voter confusion by including the specific parcel numbers in the ballot language;. NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. Resolution 017-2025 is hereby repealed in its entirety and replaced with this Resolution.

SECTION 2. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 009-2025, a copy of which is attached hereto and hereby made a part hereof.

SECTION 3. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 4. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 009-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 5. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney, upon recommendation from the County Prosecutor as legal counsel for the Board of Elections to clarify the ballot language:

The remainder of the page intentionally left blank

REFERENDUM ON ORDINANCE NO. 009-2025 (By Petition) City of Whitehall, Ohio A majority affirmative vote is necessary for passage
Ordinance No. 009-2025 would create the Fairway Cliffs Community Authority for Parcel Nos. 090-001792-00 and 090-001776-00, establish the Authority's boundaries as said Parcels, and method for selecting Trustees of the Authority, appoint the initial Trustees and fix the surety bond amount for the Trustees. Whitehall City Council approved this ordinance at the request of the applicant seeking to redevelop this parcel to provide for additional housing units within the City consistent with the adopted Citywide development master plan.

	YES	Shall Ordinance No. 009-2025, creating the Fairway Cliffs Community Authority for Parcel Nos. 090-001792-00 and 090-001776-00, establishing the Authority's boundaries as said Parcels, and method for selecting Trustees of the Authority, appointing the initial Trustees and fixing the surety bond amount for the Trustees, be approved?
	NO	

SECTION 6. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to submit the question of approving Ordinance 009-2025 on the November 4, 2025, general election ballot.

SECTION 7. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

Requested and prepared by: Bradley S. Nicodemus, City Attorney
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

DRAFT # 5

RESOLUTION NO. 031-2025 (Comm. of the Whole - 1st reading -SUSP & ADOPT 07-22-2025- /)
REPEALING AND REPLACING RESOLUTION 018-2025, DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING ORDINANCE NO. 010-2025 TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION, AND DECLARING AN EMERGENCY.

WHEREAS, May 20, 2025, Council approved Resolution 018-2025 placing the question of whether Ordinance 010-2025 should be adopted to the electorate; and

WHEREAS, upon review of the proposed ballot language by the County Prosecutor as legal counsel for the Board of Elections, the County Prosecutor has requested the ballot language be clarified to prevent voter confusion by including the specific parcel numbers in the ballot language; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. Resolution 018-2025 is hereby repealed in its entirety and replaced with this Resolution.

SECTION 2. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 010-2025, a copy of which is attached hereto and hereby made a part hereof.

SECTION 3. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 4. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 010-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 5. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney, upon recommendation from the County Prosecutor as legal counsel for the Board of Elections to clarify the ballot language:

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REFERENDUM ON ORDINANCE NO. 010-2025

(By Petition)

City of Whitehall, Ohio

A majority affirmative vote is necessary for passage

Ordinance No. 010-2025 approved a community reinvestment area real property tax exemption for Fairway Cliffs LLC or its designees, on for Parcel Nos. 090-001792-00 and 090-001776-00, and authorized the mayor to execute an infrastructure agreement with Fairway Cliffs LLC. Whitehall City Council approved this ordinance at the request of the applicant seeking to redevelop this parcel to provide for additional housing units

within the City consistent with the adopted Citywide development master plan.		
	YES	Shall Ordinance No. 010-2025, approving a community reinvestment area real property tax exemption for Fairway Cliffs LLC or its designees, on for Parcel Nos. 090-001792-00 and 090-001776-00, and authorizing the mayor to execute an infrastructure agreement, be approved?
	NO	

SECTION 6. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to submit the question of approving Ordinance 009-2025 on the November 4, 2025, general election ballot.

SECTION 7. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

Requested and prepared by: Bradley S. Nicodemus, City Attorney
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

DRAFT # 6

RESOLUTION NO. 032-2025 (Comm. of the Whole - 1st reading -SUSP & ADOPT 07-22-2025- /)
REPEALING AND REPLACING RESOLUTION 019-2025, DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING ORDINANCE NO. 011-2025 TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION, AND DECLARING AN EMERGENCY.

WHEREAS, May 20, 2025, Council approved Resolution 019-2025 placing the question of whether Ordinance 011-2025 should be adopted to the electorate;

WHEREAS, upon review of the proposed ballot language by the County Prosecutor as legal counsel for the Board of Elections, the County Prosecutor has requested the ballot language be clarified to prevent voter confusion by including the specific parcel numbers in the ballot language; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE

CITY OF WHITEHALL, OHIO:

SECTION 1. Resolution 019-2025 is hereby repealed in its entirety and replaced with this Resolution.

SECTION 2. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 011-2025, a copy of which is attached hereto and hereby made a part hereof.

SECTION 3. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 4. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 011-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 5. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney, upon recommendation from the County Prosecutor as legal counsel for the Board of Elections to clarify the ballot language:

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REFERENDUM ON ORDINANCE NO. 011-2025

(By Petition)

City of Whitehall, Ohio

A majority affirmative vote is necessary for passage

Ordinance No. 011-2025 created the Fairway Boulevard Tax Increment Financing Incentive District and declared improvements to Parcel Nos. 090-001792-00 and 090-001776-00 within the district to be a public purpose and exempt from real property taxation, required the owners of the parcels to make service payments, and specified the public infrastructure improvements that benefit or serve parcels in the district. Whitehall

City Council approved this ordinance at the request of the applicant seeking to redevelop this parcel to provide for additional housing units within the City consistent with the adopted Citywide development master plan.		
	YES	Shall Ordinance No. 011-2025, creating the Fairway Boulevard Tax Increment Financing Incentive District, declaring improvements to Parcel Nos. 090-001792-00 and 090-001776-00 within the district to be a public purpose and exempt from real property taxation, requiring the owners of the parcels to make service payments, establishing a municipal public improvement tax increment equivalent fund for the service payments, and specifying the public infrastructure improvements that benefit or serve parcels in the district, be approved?
	NO	

SECTION 6. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to submit the question of approving Ordinance 009-2025 on the November 4, 2025, general election ballot.

SECTION 7. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.
 Requested and prepared by: Bradley S. Nicodemus, City Attorney
 Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

DRAFT # 7

RESOLUTION NO. 033-2025 (Comm. of the Whole - 1st reading -SUSP & ADOPT 07-22-2025- /)
 DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING CITIZEN INITIATED ORDINANCE NO. 042-2025 AMENDING THE ZONING MAP TO ESTABLISH THE FAIRWAY BOULEVARD OVERLAY DISTRICT TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION AND DECLARING AN EMERGENCY.

WHEREAS, on April 30, 2025, a petition committee of residents filed an Initiative Petition to adopt an ordinance creating the Fairway Boulevard Overlay District with the City Attorney;

WHEREAS, on May 7, 2025, the City Attorney certified the sufficiency of the initiative petition to the Clerk of Council;

WHEREAS, pursuant to Charter 15 and 53, Council referred the proposed ordinance to Planning Commission which conducted a public hearing and reported a favorable recommendation on June 16, 2025;

WHEREAS, on July 15, 2025, Council adopted petition committee submitted amendments to the proposed ordinance and then failed to adopt Ordinance 042-2025;

WHEREAS, on July 22, 2025, the petition committee, pursuant to Charter 15(i), submitted a proposed ordinance, with amendments, to be included on the November 4, 2025 ballot; and

WHEREAS, pursuant to Section 17(a) of the Whitehall City Charter, the City Attorney prepared a statement in clear and concise language descriptive of Ordinance No.042-2025 for inclusion on the ballots used for voting upon whether to approve Ordinance No. 042-2025; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF

WHITEHALL, OHIO:

SECTION 1. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 042-2025, as amended by the petition committee, a copy of which is attached hereto and hereby made a part hereof.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 042-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney:

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INITIATIVE ORDINANCE NO. 042-2025 (By Petition) City of Whitehall, Ohio		
A majority affirmative vote is necessary for passage		
Ordinance No. 042-2025 is a proposed ordinance submitted by a committee of electors to amend the Zoning Code to establish the Fairway Boulevard Overlay District on Parcel Nos. 090-001774-00; 090-001812-00; 090-001819-00; 090-001775-00; 090-001776-00; 090-001010-00; 090-001777-00; 090-001735-00; 090-001778-00; 090-006752-00; 090-001780-00; 090-001781-00; and 090-001782-00, to limit its future uses, subdivision and infrastructure within said district, to amend the Zoning Map, to protect large trees, to impose a moratorium on development and to provide for a private right of action.		
	YES	Shall Ordinance No. 042-2025, amend the Zoning Code to establish the Fairway Boulevard Overlay District, on Parcel Nos. 090-001774-00; 090-001812-00; 090-001819-00; 090-001775-00; 090-001776-00; 090-001010-00; 090-001777-00; 090-001735-00; 090-001778-00; 090-006752-00; 090-001780-00; 090-001781-00; and 090-001782-00, to limit its future uses, subdivision and infrastructure within said district, to amend the Zoning Map, to protect large trees, to impose a moratorium on development and to provide for a private right of action, be approved?
	NO	

SECTION 5. For the reasons in the preamble and the deadline to place this matter on the November ballot, this Resolution is deemed any emergency measure and shall be immediately effective.

Requested and prepared by: Bradley S. Nicodemus, City Attorney
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

STANDING COMMITTEES

ADMINISTRATION AND FINANCIAL MANAGEMENT - CHAIRPERSON ELMORE

Members: Morrison, Smith and Brown

DRAFT # 8

RESOLUTION 025-2025 (Adm. & Fin. Mgmt-1st reading-Suspend and Adopt 07-22-2025- Elmore/)
AUTHORIZING THE MAYOR TO ACCEPT MONETARY DONATIONS FOR THE FOOD TRUCK & FUN FEST.

WHEREAS, the City is seeking legislative authorization from the Council of the City of Whitehall to accept monetary donations made in support of the annual Food Truck & Fun Fest; and

WHEREAS, various local interests have donated approximately sixty-five thousand and 00/00 dollars (\$65,000.00) so far; and

WHEREAS, these funds are needed to provide the services necessary for a fun experience for all festival attendees; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That the Mayor is authorized to accept monetary donations made in support of the Food Truck & Fun Fest.

SECTION 2: That this resolution shall go into full force and effect immediately upon its passage and approval by the Mayor.

Requested and Prepared By: Steven Quincel, City Auditor
Approved as to form: Kylie Keitch, Assistant City Attorney 7/17/2025 KK

DRAFT # 9

ORDINANCE NO. 070-2025 (Adm. & Fin. Mgmt. - 1st teading- SUSP & ADOPT 07-22-2025 Elmore/)

APPROVING AND MAKING A SUPPLEMENTAL APPROPRIATION OF FIFTY THOUSAND AND 00/00 DOLLARS (\$50,000.00) FROM PREVIOUSLY UNAPPROPRIATED MONIES IN THE GENERAL FUND (101) TO THE FOOD TRUCK & FUN FEST EXPENSE ACCOUNT (101.200.56150).

WHEREAS, construction activities on South Yearling Road have caused a change in venue for the festival; and

WHEREAS, this change created the need for redesigning the festival to fit the new location; and

WHEREAS, expenses for the annual Food Truck and Fun Fest have exceeded anticipated and budgeted activity; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That this Council approves and makes a supplemental appropriation of fifty thousand and 00/00 dollars (\$50,000.00) from previously unappropriated monies in the General Fund (101) to the Food Truck & Fun Fest expense account (101.200.56150).

SECTION 2: That the City Auditor is hereby authorized to draw his warrant upon the Treasurer of the City for these funds for the purpose stated in this ordinance.

SECTION 3: That this Ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

Requested and prepared by: Steven Quincel, City Auditor
Approved as to form: Kylie Keitch, Assistant City Attorney 7/17/2025 KK

DRAFT # 10

ORDINANCE 071-2025 (Adm. & Fin. Mgmt.- 1st reading- SUSP & ADOPT 07-22-2025- Elmore/)

APPROVING AND MAKING A FUND TRANSFER IN THE AMOUNT OF FOUR HUNDRED FIFTY SEVEN THOUSAND THREE HUNDRED SEVENTY-TWO AND 37/100 DOLLARS (\$457,372.37) FROM UNAPPROPRIATED MONIES IN THE WATER UTILITY FUND (841) TO THE DEBT SERVICE FUND (401).

WHEREAS, in 2024 the City borrowed funds for various waterline improvements; and

WHEREAS, Ordinance 102-2024 appropriated monies for the purpose of repayment; and

WHEREAS, the Auditor of State requires bond retirement payments and other long term debt be paid from the Debt Service Fund; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That the Council of the City of Whitehall approves and makes a fund transfer in the amount of four hundred fifty seven thousand three hundred seventy-two and 37/100 dollars (\$457,372.37) from unappropriated monies in the Water Utility Fund (841) to the Debt Service Fund (401).

SECTION 2: That the City Auditor is hereby authorized to draw his warrant upon the Treasurer of the City for these funds for the purpose stated in this Ordinance.

SECTION 3: That this Ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

Requested and Prepared by: Steven Quincel, City Auditor
Approved as to form: Kylie Keitch, Assistant City Attorney 7/17/2025 KK

DRAFT # 11

ORDINANCE NO. 072-2025 (Adm. & Fin. Mgmt. -1st reading- SUSP & ADOPT 07-22-2025- Elmore/)

AUTHORIZING AND APPROVING SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00) FROM UNAPPROPRIATED MONIES IN THE GENERAL FUND (101) TO THE UNEMPLOYMENT COMPENSATION EXPENSE ACCOUNT 101.900.51011.

WHEREAS, unemployment compensation paid out exceeds expectations; and

WHEREAS, additional monies are required for the unemployment compensation for 2025; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: The Council of the City of Whitehall, Ohio approves the supplemental appropriation in the amount of twelve thousand and no/100 dollars (\$12,000.00) from the General Fund (101) to Unemployment Compensation expense account (101.900.51011).

SECTION 2: That this Ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

Requested and prepared by Chris Peterson, Deputy Auditor
Approved as to form: Kylie Keitch, Assistant City Attorney 7/18/2025 KK

DRAFT # 12

RESOLUTION NO. 026-2025 (Adm. & Fin. Mgmt. -1st reading- SUSP & ADOPT 07-22-2025- Elmore/)
RESOLVING TO APPROVE "THEN AND NOW" CERTIFICATES.

WHEREAS, O.R.C. 5705.41(D)(1) states that "then and now" certificates of three thousand dollars and no/100 (\$3,000.00) and more must be approved by resolution or ordinance within thirty days of receipt of the "then and now" certificates; and

WHEREAS, the City has processed the attached "then and now" certificates over the sum of three thousand dollars and now these certificates require approval by City Council; and

WHEREAS, the Auditor of the City of Whitehall, Ohio has determined that, at the time of the making and execution of the certificates, a sufficient sum was appropriated by Council for the purpose of the requisition, and is currently deposited in the treasury and allocated to the appropriate account and free from any previous encumbrances; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That the City Council does hereby approve the attached "then and now" certificates:

SECTION 2: That the City Council of the City of Whitehall, Ohio, lawfully appropriated the expenditure, which the expense originated.

SECTION 3: That this Resolution shall go into full force and effect immediately upon its passage by the Council of the City of Whitehall and approval by the Mayor.

Requested and Prepared by: Steven Quincel, City Auditor
Approved as to form: Kylie Keitch, Assistant City Attorney 7/17/2025 KK

COMMUNITY AND ELDER ADVOCACY– CHAIRPERSON HARCAR

Members: Heck, Dixon, Brown

ORDINANCE NO. 061-2025 (Comm. & Elder Adv.-3rd Reading - ADOPT 08-19-2025 - Harcar/Dixon)
AN ORDINANCE ADOPTING CHAPTER 512 OF THE CODIFIED ORDINANCES OF THE CITY OF WHITEHALL ESTABLISHING UNLAWFUL DISCRIMINATORY PRACTICES IN THE CITY OF WHITEHALL AND DECLARING AN EMERGENCY.

COMMUNITY STANDARDS AND ENFORCEMENT – CHAIRPERSON SMITH

Members: Dixon, Elmore & Harcar

ORDINANCE NO. 058-2025 (Comm. Stand. & Enf. – 3rd reading – ADOPT- 08-05-2025-Smith/Dixon)
(PUBLIC HEARING AT PLANNING COMMISSION SCHEDULED FOR July 29, 2025)
MAKING UPDATES TO PART 11 – PLANNING AND ZONING CODE, ARTICLE 1114.04.

DRAFT # 13

ORDINANCE NO. 073-2025 (Comm. Stand. & Enf. -3rd reading- ADOPT 09-02-2025- Smith/)
AMENDING SECTION 1136, TITLED FLOOD DAMAGE REDUCTION, OF THE PLANNING AND ZONING CODE OF THE CITY OF WHITEHALL.

WHEREAS, ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens and;

WHEREAS, the City of Whitehall codified ordinances need to be amended to reflect the FEMA updated National Flood Damage Reduction Regulations. NOW, THEREFORE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: Section 1136, FLOOD DAMAGE REDUCTION, is hereby amended to replace the existing chapter as follows:

1136.01: GENERAL PROVISIONS

1. Statutory Authorization

ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Council of the City of Whitehall, State of Ohio, does ordain as follows:

2. Findings of Fact

The City of Whitehall has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, flood proofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

100. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
7. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
8. Minimize the impact of development on adjacent properties within and near flood prone areas;
9. Ensure that the flood storage and conveyance functions of the floodplain are maintained;
10. Minimize the impact of development on the natural, beneficial values of the floodplain;
11. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
12. Meet community participation requirements of the National Flood Insurance Program.

500. Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
5. Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

5. Lands to Which These Regulations Apply

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Whitehall as identified in Section 1136.01(F), including any additional areas of special flood hazard annexed by the City of Whitehall.

6. Basis for Establishing the Areas of Special Flood Hazard

For the purposes of these regulations, the following studies and/or maps are adopted:

1. Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for Franklin County, Ohio and Incorporated Areas, both effective June 16, 2011.
2. Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
3. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio, which has been approved by the City of Whitehall as required by Section 1136.04(C) Subdivisions and Other New Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Whitehall City Hall, 360 S. Yearling Road, Whitehall, Ohio 43213.

7. Abrogation and Greater Restrictions

These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations are not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

8. Interpretation

In the interpretation and application of these regulations, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.
4. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Whitehall, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

10. Severability

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 1136.02: DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

1. Accessory Structure

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

2. Appeal

A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.

100. Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one hundred (100) year flood.

500. Base (100-Year) Flood Elevation (BFE)

The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the lowest adjacent natural grade elevation plus the depth number (from 1 to 3 feet).

5. Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

6. Development

Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

7. Enclosure Below the Lowest Floor

See "Lowest Floor."

8. Executive Order 11988 (Floodplain Management)

Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

1. Federal Emergency Management Agency (FEMA)

The agency with the overall responsibility for administering the National Flood Insurance Program.

10. Fill

A deposit of earth material placed by artificial means.

11. Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters, and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

50. Flood Hazard Boundary Map (FHBM)

Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

1000. Flood Insurance Rate Map (FIRM)

An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

14. Flood Insurance Risk Zones

Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

1. Zone A:

Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.

1. Zones A1-30 and Zone AE:

Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.

2. Zone AO:

Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

100. Zone AH:

Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

500. Zone A99:

Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

2. Zone B and Zone X (shaded):

Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

3. Zone C and Zone X (unshaded):

Areas determined to be outside the 500-year floodplain.

15. Flood Insurance Study (FIS)

The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

16. Floodproofing

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

17. Flood Protection Elevation

The Flood Protection Elevation, or FPE, is the base flood elevation plus [.5] feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

18. Floodway

A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

19. Freeboard

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

20. Historic structure

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
3. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
4. Individually listed on the inventory of historic places maintained by City of Whitehall's historic preservation program, which program is certified by the Ohio Historic Preservation Office.

21. Hydrologic and hydraulic engineering analysis

An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

5. Letter of Map Change (LOMC)

A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

1. Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

2. Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

3. Conditional Letter of Map Revision (CLOMR)

A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

23. Lowest floor

The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

10. Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 4781 of the Ohio Revised Code.

25. Manufactured home park

As specified in the Ohio Adm. Code 4781-12-01(K), a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes

26. Mean sea level

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

1. National Flood Insurance Program (NFIP)

The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

1. New construction

Structures for which the "start of construction" commenced on or after the effective date of a floodplain regulation adopted by the City of Whitehall and includes any subsequent improvements to such structures.

For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM [July 18, 1985] and includes any subsequent improvements to such structures.

200. Person

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Rev. Code §111.15(A)(2) as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

1. Recreational vehicle

A vehicle which is:

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

1. Registered Professional Architect
A person registered to engage in the practice of architecture pursuant to Ohio Rev. Code §4703.01 and 4703.19.
2. Registered Professional Engineer

A person registered as a professional engineer pursuant to Ohio Rev. Code Chapter 4733.

1. Registered Professional Surveyor

A person registered as a professional surveyor pursuant to Ohio Rev. Code Chapter 4733.

1. Special Flood Hazard Area

Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1 30, or A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

2. Start of construction

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

1. Structure

A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

1. Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to the 'before damaged' condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

1. Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

2000. Variance

A grant of relief from the standards of these regulations.

1. Violation

The failure of a structure or other development to be fully compliant with these regulations.

SECTION 1136.03: ADMINISTRATION

1. Designation of the Floodplain Administrator

The Director of Public Service is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

2. Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

1. Evaluate applications for permits to develop in special flood hazard areas.
2. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
3. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
4. Inspect buildings and lands to determine whether any violations of these regulations have been committed.
5. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, floodproofing certificates, variances, and records of enforcement actions taken for violations of these regulations.
6. Enforce the provisions of these regulations.
7. Provide information, testimony, or other evidence as needed during variance hearings.
8. Coordinate map maintenance activities and FEMA follow-up.
9. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

100. Floodplain Development Permits

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling, grading, construction, alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1.6, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

500. Application Required

An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

1. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
2. Elevation of the existing, natural ground where structures are proposed.
3. Elevation of the lowest floor, including basement, of all proposed structures.
4. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
5. Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 1. Floodproofing certification for non-residential floodproofed structure as required in Section 4.5.
 2. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1136.04 (E) are designed to automatically equalize hydrostatic flood forces.
 3. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1136.04 (I)(3).
 4. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1136.04 (I)(2).
 5. A hydrologic and hydraulic engineering analysis showing the impact of any development on flood heights in an identified floodway as required by Section 1136.04 (I)(1).
 6. Generation of base flood elevation(s) for subdivision and other new developments as required by Section 1136.04 (C).
6. All applications for a floodplain development permit shall be accompanied by a fee of fifty dollars (\$50).

5. Review and Approval of a Floodplain Development Permit Application

1. Review

- After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1136.03(D) has been received by the Floodplain Administrator.
- The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

2. Approval

Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If the Floodplain Administrator is satisfied that the development proposed in the floodplain development application conforms to the requirements of this ordinance, the Floodplain Administrator shall issue the permit. All floodplain development permits shall be conditional upon the commencement of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

6. Inspections

The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

7. Post-Construction Certifications Required

The following as-built certifications are required after a floodplain development permit has been issued:

- For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered professional surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- For all development activities subject to the standards of Section 1136.03(K)(1), a Letter of Map Revision.
- For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Non-Residential Structures completed by a registered professional engineer or architect together with associated documentation.

8. Revoking a Floodplain Development Permit

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1136.05 of these regulations.

1. Exemption from Filing a Development Permit

An application for a floodplain development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$2500.

10. State and Federal Development

- Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NFIP criteria.
- Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable local floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:
- Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781-12.
- Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.

100. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board

under Section 3734 of the Ohio Revised Code.

500. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.

Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of EO 11988.

11. Map Maintenance Activities

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Whitehall flood maps, studies and other data identified in Section 1136.01(F) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

1. Requirement to Submit New Technical Data
2. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 4. Subdivision or other new development proposals requiring the establishment of base flood elevations in accordance with Section 1136.04 (C).
2. It is the responsibility of the applicant to have technical data, required in accordance with Section 1136.03(K)(1) prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
3. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 1. Proposed floodway encroachments that increase the base flood elevation; and
 2. Proposed development which increases the base flood elevation by more than one foot in riverine areas where FEMA has provided base flood elevations but no floodway.

500. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1136.03 (K)(1)(a).

2. Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Whitehall, and may be submitted at any time.

3. Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Whitehall have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Whitehall's Flood Insurance Rate Map accurately represent the City of Whitehall boundaries, include within such notification a copy of a map of the City of Whitehall suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Whitehall has assumed or relinquished floodplain management regulatory authority.

50. Data Use and Flood Map Interpretation

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

1. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
2. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
3. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special

flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5.0, Appeals and Variances.

4. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

13. Use of Preliminary Flood Insurance Rate Map and/or Flood Insurance Study Data

1. Zone A:
 2. Within Zone A areas designated on an effective FIRM, data from the preliminary FIRM and/or FIS shall be reasonably utilized as best available data.
 3. When all appeals have been resolved and a notice of final flood elevation determination has been provided in a Letter of Final Determination (LFD), BFE and floodway data from the preliminary FIRM and/or FIS shall be used for regulating development.
2. Zones AE, A1-30, AH, and AO:
 1. BFE and floodway data from a preliminary FIS or FIRM restudy are not required to be used in lieu of BFE and floodway data contained in an existing effective FIS and FIRM. However,
 2. Where BFEs increase in a restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of their citizens are protected.
 3. Where BFEs decrease, preliminary FIS or FIRM data should not be used to regulate floodplain development until the LFD has been issued or until all appeals have been resolved.
 4. If a preliminary FIRM or FIS has designated floodways where none had previously existed, communities should reasonably utilize this data in lieu of applying the encroachment performance standard of Section 1136.04(I) since the data in the draft or preliminary FIS represents the best data available.
3. Zones B, C, and X:
 1. Use of BFE and floodway data from a preliminary FIRM or FIS are not required for areas designated as Zone B, C, or X on the effective FIRM which are being revised to Zone AE, A1-30, AH, or AO. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and property of their citizens are protected.

14. Substantial Damage Determinations

Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:

1. Determine whether damaged structures are located in special flood hazard areas;
2. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
3. Require owners of substantially damaged structures to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

SECTION 1136.04: USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1136.01(F), or 1136.03(K)(1)

1. Use Regulations

1. Permitted Uses

All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Whitehall are allowed provided they meet the provisions of these regulations.

2. Prohibited Uses

1. Storage or processing of materials that are hazardous, flammable, or explosive in the identified special flood hazard area.

2. Storage of material or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway area.

2. Water and Wastewater Systems

The following standards apply to all water supply, sanitary sewerage and waste disposal systems in the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules:

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
2. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
3. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

100. Subdivisions and Other New Developments

1. All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
2. All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
3. All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
4. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
5. The applicant shall meet the requirement to submit technical data to FEMA in Section 1136.03(J)(1) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1136.04(C)(4)

500. Residential Structures

The requirements of Section 1136.04(D) apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1136.03(L).

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring 1136.04(D)(1) and construction materials resistant to flood damage 1136.04(D)(2) are satisfied.
2. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
3. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood protection elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest natural adjacent grade.
5. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings to allow the automatic equalization of hydrostatic pressure may have an enclosure below the lowest floor provided the enclosure meets the following standards:

1. Be used only for the parking of vehicles, building access, or storage; and
2. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
3. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors.
5. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 1136.04(D).

5. Nonresidential Structures

The requirements of Section 1136.04(E) apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances

provided in Section 1136.03(L).

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1136.04(D)(1)-(3) and (5)-(7).
2. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

1. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 1136.04(E)(2)(a) and (b).
3. Where flood protection elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

6. Accessory Structures

Structures that are 600 square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH designated on the community's FIRM. Such structures must meet the following standards:

1. They shall not be used for human habitation;
2. They shall be constructed of flood-resistant materials;
3. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
4. They shall be firmly anchored to prevent flotation;
5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
6. They shall meet the opening requirements of Section 1136.04(D)(5)(c);

7. Recreational Vehicles

Recreational vehicles on sites within zones A, A1-A30, AE, AO, or AH must meet at least one of the following standards:

1. They shall not be located on sites in special flood hazard areas for more than 180 days, or
2. They must be fully licensed and ready for highway use, or
3. They must be placed on the site pursuant to a floodplain development permit issued under Sections 1136.03(C) and 1136.03(D), and meet all standards of Section 1136.04(D).

8. Gas or Liquid Storage Tanks

Within zone A, A1-A30, AE, AO, or AH, new or substantially improved above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

1. Assurance of Flood Carrying Capacity

Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

1. Development in Floodways
2. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
3. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 1. Meet the requirements to submit technical data in Section 1136.03(K)(1);
 2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and

5. Concurrence of the Mayor of the City of Whitehall and the Chief Executive Officer of any other communities impacted by the proposed actions.
2. Development in Riverine Areas with Base Flood Elevations but No Floodways
 1. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
 2. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 2. Section 1136.04(I)(1)(b)(i)-(v).
3. Alterations of a Watercourse

For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

1. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
2. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Whitehall specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
4. The applicant shall meet the requirements to submit technical data in Section 1136.03(J)(1)(a)(i)-(iv) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

SECTION 1136.05: APPEALS AND VARIANCES

1. Appeals Board Established
2. The Board of Zoning and Building Appeals as established by the City Charter shall hear and decide appeals and requests for variances from the requirements of this chapter
3. Records of the Appeals Board shall be kept and filed in 360 South Yearling Road, (Service Department) Whitehall Ohio, 43213.
2. Powers and Duties
 1. The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
 2. Authorize variances in accordance with Section 1136.05(D) of these regulations.

100. Appeals

Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within [20] days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

500. Variances

Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

1. Application for a Variance
 2. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
 3. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
 4. All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the City of Whitehall.
2. Notice for Public Hearing

The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

3. Public Hearing

At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger to life and property due to flooding or erosion damage.
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 4. The importance of the services provided by the proposed facility to the community.
 5. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
 6. The necessity to the facility of a waterfront location, where applicable.
 7. The compatibility of the proposed use with existing and anticipated development.
 8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
4. Variances shall only be issued upon:
 1. A showing of good and sufficient cause.
 2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 4. A determination that the structure or other development is protected by methods to minimize flood damages.
 5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

5. Other Conditions for Variances

1. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
2. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1136.05(D)(3)(a)-(k) have been fully considered. As the lot size increases beyond one half acre, the technical justification required for issuing the variance increases.
3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the

reduced lowest floor elevation.

5. Procedure at Hearings

1. All testimony shall be given under oath.
2. A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
3. The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
4. The administrator may present evidence or testimony in opposition to the appeal or variance.
5. All witnesses shall be subject to cross-examination by the adverse party or their counsel.
6. Evidence that is not admitted may be proffered and shall become part of the record for appeal.
7. The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
8. The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

6. Appeal to the Court

Those aggrieved by the decision of the Appeals Board may appeal such decision to the Franklin County Court of Common Pleas, pursuant to Ohio Rev. Code Chapter 2506.

SECTION 1136.06: ENFORCEMENT

1. Compliance Required
 2. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1136.03(I).
 3. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1136.06(C).
 4. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1136.06(C).
2. Notice of Violation

Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, they shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

1. Be put in writing on an appropriate form;
2. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
3. Specify a reasonable time for performance;
4. Advise the owner, operator, or occupant of the right to appeal;
5. Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

100. Violations and Penalties

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Whitehall. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Whitehall from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Whitehall shall prosecute any violation of these regulations in accordance with the penalties stated herein.

Requested and Prepared by: Casey Rowlands, Director of Public Service
Approved as to form: Bradley S. Nicodemus, City Attorney

ECONOMIC DEVELOPMENT – CHAIRPERSON DIXON

Members: Smith, Morrison, Brown

AN ORDINANCE AMENDING ORDINANCE 042-2022 TO AMEND THE PHASE 1A AND PHASE 1B FINAL DEVELOPMENT PLAN IN THE APPROVED PLANNED UNIT DEVELOPMENT (PUD) FOR THE PROPERTY LOCATED ON EAST BROAD ST, HAMILTON RD, AND POTH RD, PARCEL NUMBERS LISTED IN APPENDIX A, PROPERTY OWNED BY THE CITY OF WHITEHALL.

INFRASTRUCTURE, MAINTENANCE AND SERVICES - CHAIRPERSON BROWN

Members: Morrison, Dixon and Heck

No drafts or pending legislation.

PUBLIC SAFETY – CHAIRPERSON MORRISON

Members: Elmore, Heck, Harcar

DISCUSSION: Whitehall Division of Police Records Maintenance and Release

PARKS AND RECREATION – CHAIRPERSON HECK

Members: Elmore, Harcar, Smith

No drafts or pending legislation.

ADJOURN

ORDINANCE NO. 067-2025

REPEALING ORDINANCE 009-2025 FOR THE ORGANIZATION OF THE FAIRWAY CLIFFS COMMUNITY AUTHORITY, AND DECLARING AN EMERGENCY.

WHEREAS, Council passed Ordinance 009-2025, to create a New Community Authority, known as the Fairway Cliffs Community Authority; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That Ordinance 009-2025 is hereby repealed in its entirety.

SECTION 2: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City for the reason that the applicant whose application resulted in the proposed tax incentive approved in Ordinance No. 009-2025 has requested that their application for incentives be withdrawn thereby obviating the tax incentive approved in Ordinance No. 009-2025 and, in turn, obviating the referendum on Ordinance No. 009-2025, and for the further purpose of providing sufficient notice to the Franklin County Board of Elections to withdraw the question of whether to approve Ordinance No. 009-2025 from the November 4, 2025 general election ballot so as to prevent voter confusion and to prevent the use of taxpayer dollars to conduct a referendum on what is now a repealed ordinance.

SECTION 3: This Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this _____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

ORDINANCE NO. 068-2025

REPEALING ORDINANCE 010-2025 FOR THE COMMUNITY REINVESTMENT AREA AGREEMENT FOR FAIRWAY CLIFFS LLC,
AND DECLARING AN EMERGENCY.

WHEREAS, Council passed Ordinance 010-2025, to approve a Community Reinvestment Area Agreement for Fairway Cliffs LLC; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That Ordinance 010-2025 is hereby repealed in its entirety.

SECTION 2: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City for the reason that the applicant whose application resulted in the proposed tax incentive approved in Ordinance No. 010-2025 has requested that their application for incentives be withdrawn thereby obviating the tax incentive approved in Ordinance No. 010-2025 and, in turn, obviating the referendum on Ordinance No. 010-2025, and for the further purpose of providing sufficient notice to the Franklin County Board of Elections to withdraw the question of whether to approve Ordinance No. 010-2025 from the November 4, 2025 general election ballot so as to prevent voter confusion and to prevent the use of taxpayer dollars to conduct a referendum on what is now a repealed ordinance.

SECTION 3: This Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this _____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

Requested by: Jackie Russell, Economic Development Director 7/14/2025

Approved as to form: Kylie Keitch, Asst. City Attorney KK 7/15/2025

ORDINANCE NO. 069-2025

REPEALING ORDINANCE 011-2025 FOR THE FAIRWAY BOULEVARD TAX INCREMENT FINANCING INCENTIVE DISTRICT, AND
DECLARING AN EMERGENCY.

WHEREAS, Council passed Ordinance 011-2025, to approve a Community Reinvestment Area Agreement for
Fairway Cliffs LLC; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That Ordinance 011-2025 is hereby repealed in its entirety.

SECTION 2: That this Ordinance is hereby declared to be an emergency measure necessary for the
immediate preservation of the public health, safety, and welfare of this City for the reason that the applicant whose
application resulted in the proposed tax incentive approved in Ordinance No. 011-2025 has requested that their
application for incentives be withdrawn thereby obviating the tax incentive approved in Ordinance No. 011-2025 and, in
turn, obviating the referendum on Ordinance No. 011-2025, and for the further purpose of providing sufficient notice to
the Franklin County Board of Elections to withdraw the question of whether to approve Ordinance No. 011-2025 from the
November 4, 2025 general election ballot so as to prevent voter confusion and to prevent the use of taxpayer dollars to
conduct a referendum on what is now a repealed ordinance;

SECTION 3: This Ordinance shall be in full force and effect immediately upon its adoption and approval by the
Mayor.

PASSED this _____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

RESOLUTION NO. 027-2025

REPEALING RESOLUTION 017-2025 WHICH PLACED THE REFERENDUM OF ORDINANCE 009-2025 ON THE NOVEMBER 4, 2025 BALLOT AND DECLARING AN EMERGENCY.

WHEREAS, on April 15, 2025, Council passed Ordinance No. 009-2025, to organize the Fairway Cliffs Community Authority, establish its boundaries and trustees, and appointing the initial members of the Authority;

WHEREAS, a referendum petition was filed with the City Attorney seeking to submit Ordinance No. 009-2025 to the City's electors for their approval or rejection at the November 4, 2025 general election, said petition certified on May 7, 2025, by the City Attorney certified the sufficiency of the referendum petition to the Clerk of Council; and

WHEREAS, on May 20, 2025, Council passed Resolution 017-2025 directing the submission of the question approving Ordinance 009-2025 to the electors at the November 4, 2025, election; and

WHEREAS, on July 22, 2025, Council passed Ordinance 067-2025 repealing Ordinance 009-2025, and therefore submission of the adoption of the ordinance to the electors is moot; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. That Resolution 017-2025 is hereby repealed in its entirety.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to remove the question of whether Ordinance No. 009-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to withdraw the question of approving Ordinance 009-2025 from the November 4, 2025, general election ballot so as to prevent voter confusion and prevent the use of taxpayer dollars to conduct a referendum on a now repealed ordinance.

SECTION 5. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

RESOLUTION NO. 028-2025

REPEALING RESOLUTION 018-2025 WHICH PLACED THE REFERENDUM OF ORDINANCE 010-2025 ON THE NOVEMBER 4, 2025 BALLOT AND DECLARING AN EMERGENCY.

WHEREAS, on April 15, 2025, Council passed Ordinance No. 010-2025, approving a community reinvestment area real property tax exemption for Fairway Cliffs LLC or its designees and authorizing the mayor to execute an infrastructure agreement with Fairway Cliffs LLC;

WHEREAS, a referendum petition was filed with the City Attorney seeking to submit Ordinance No. 010-2025 to the City's electors for their approval or rejection at the November 4, 2025 general election, said petition certified on May 7, 2025, by the City Attorney certified the sufficiency of the referendum petition to the Clerk of Council; and

WHEREAS, on May 20, 2025, Council passed Resolution 018-2025 directing the submission of the question approving Ordinance 010-2025 to the electors at the November 4, 2025, election; and

WHEREAS, on July 22, 2025, Council passed Ordinance 068-2025 repealing Ordinance 010-2025, and therefore submission of the adoption of the ordinance to the electors is moot; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. That Resolution 018-2025 is hereby repealed in its entirety.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to remove the question of whether Ordinance No. 010-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to withdraw the question of approving Ordinance 009-2025 from the November 4, 2025, general election ballot so as to prevent voter confusion and prevent the use of taxpayer dollars to conduct a referendum on a now repealed ordinance.

SECTION 5. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

Requested and prepared by: Bradley S. Nicodemus, City Attorney
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

RESOLUTION NO. 029-2025

REPEALING RESOLUTION 019-2025 WHICH PLACED THE REFERENDUM OF ORDINANCE 011-2025 ON THE NOVEMBER 4, 2025 BALLOT AND DECLARING AN EMERGENCY.

WHEREAS, on April 15, 2025, Council passed Ordinance No. 011-2025, creating the Fairway Boulevard Tax Increment Financing Incentive District, declaring improvements to the parcels within the district to be a public purpose and exempt from real property taxation, requiring the owners of the parcels to make service payments, establishing a municipal public improvement tax increment equivalent fund for the service payments, and specifying the public infrastructure improvements that benefit or serve parcels in the district;

WHEREAS, a referendum petition was filed with the City Attorney seeking to submit Ordinance No. 011-2025 to the City's electors for their approval or rejection at the November 4, 2025 general election, said petition certified on May 7, 2025, by the City Attorney certified the sufficiency of the referendum petition to the Clerk of Council; and

WHEREAS, on May 20, 2025, Council passed Resolution 019-2025 directing the submission of the question approving Ordinance 011-2025 to the electors at the November 4, 2025, election; and

WHEREAS, on July 22, 2025, Council passed Ordinance 069-2025 repealing Ordinance 011-2025, and therefore submission of the adoption of the ordinance to the electors is moot; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. That Resolution 019-2025 is hereby repealed in its entirety.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to remove the question of whether Ordinance No. 011-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to withdraw the question of approving Ordinance 009-2025 from the November 4, 2025, general election ballot so as to prevent voter confusion and prevent the use of taxpayer dollars to conduct a referendum on a now repealed ordinance.

SECTION 5. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

Requested and prepared by: Bradley S. Nicodemus, City Attorney
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

RESOLUTION NO. 030-2025

REPEALING AND REPLACING RESOLUTION 017-2025, DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING ORDINANCE NO. 009-2025 TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION, AND DECLARING AN EMERGENCY.

WHEREAS, on May 20, 2025, Council approved Resolution 017-2025 placing the question of whether Ordinance 009-2025 should be adopted to the electorate; and

WHEREAS, upon review of the proposed ballot language by the County Prosecutor as legal counsel for the Board of Elections, the County Prosecutor has requested the ballot language be clarified to prevent voter confusion by including the specific parcel numbers in the ballot language;. NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. Resolution 017-2025 is hereby repealed in its entirety and replaced with this Resolution.

SECTION 2. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 009-2025, a copy of which is attached hereto and hereby made a part hereof.

SECTION 3. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 4. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 009-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 5. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney, upon recommendation from the County Prosecutor as legal counsel for the Board of Elections to clarify the ballot language:

The remainder of the page intentionally left blank

RESOLUTION NO. 030-2025

REFERENDUM ON ORDINANCE NO. 009-2025

(By Petition)

City of Whitehall, Ohio

A majority affirmative vote is necessary for passage

Ordinance No. 009-2025 would create the Fairway Cliffs Community Authority for Parcel Nos. 090-001792-00 and 090-001776-00, establish the Authority's boundaries as said Parcels, and method for selecting Trustees of the Authority, appoint the initial Trustees and fix the surety bond amount for the Trustees. Whitehall City Council approved this ordinance at the request of the applicant seeking to redevelop this parcel to provide for additional housing units within the City consistent with the adopted Citywide development master plan.

	YES	Shall Ordinance No. 009-2025, creating the Fairway Cliffs Community Authority for Parcel Nos. 090-001792-00 and 090-001776-00, establishing the Authority's boundaries as said Parcels, and method for selecting Trustees of the Authority, appointing the initial Trustees and fixing the surety bond amount for the Trustees, be approved?
	NO	

SECTION 6. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to submit the question of approving Ordinance 009-2025 on the November 4, 2025, general election ballot.

SECTION 7. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

RESOLUTION NO. 031-2025

REPEALING AND REPLACING RESOLUTION 018-2025, DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING ORDINANCE NO. 010-2025 TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION, AND DECLARING AN EMERGENCY.

WHEREAS, May 20, 2025, Council approved Resolution 018-2025 placing the question of whether Ordinance 010-2025 should be adopted to the electorate; and

WHEREAS, upon review of the proposed ballot language by the County Prosecutor as legal counsel for the Board of Elections, the County Prosecutor has requested the ballot language be clarified to prevent voter confusion by including the specific parcel numbers in the ballot language; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. Resolution 018-2025 is hereby repealed in its entirety and replaced with this Resolution.

SECTION 2. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 010-2025, a copy of which is attached hereto and hereby made a part hereof.

SECTION 3. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 4. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 010-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 5. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney, upon recommendation from the County Prosecutor as legal counsel for the Board of Elections to clarify the ballot language:

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RESOLUTION NO. 031-2025

REFERENDUM ON ORDINANCE NO. 010-2025

(By Petition)

City of Whitehall, Ohio

A majority affirmative vote is necessary for passage

Ordinance No. 010-2025 approved a community reinvestment area real property tax exemption for Fairway Cliffs LLC or its designees, on for Parcel Nos. 090-001792-00 and 090-001776-00, and authorized the mayor to execute an infrastructure agreement with Fairway Cliffs LLC. Whitehall City Council approved this ordinance at the request of the applicant seeking to redevelop this parcel to provide for additional housing units within the City consistent with the adopted Citywide development master plan.

	YES	Shall Ordinance No. 010-2025, approving a community reinvestment area real property tax exemption for Fairway Cliffs LLC or its designees, on for Parcel Nos. 090-001792-00 and 090-001776-00, and authorizing the mayor to execute an infrastructure agreement, be approved?
	NO	

SECTION 6. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to submit the question of approving Ordinance 009-2025 on the November 4, 2025, general election ballot.

SECTION 7. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

RESOLUTION NO. 032-2025

REPEALING AND REPLACING RESOLUTION 019-2025, DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING ORDINANCE NO. 011-2025 TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION, AND DECLARING AN EMERGENCY.

WHEREAS, May 20, 2025, Council approved Resolution 019-2025 placing the question of whether Ordinance 011-2025 should be adopted to the electorate;

WHEREAS, upon review of the proposed ballot language by the County Prosecutor as legal counsel for the Board of Elections, the County Prosecutor has requested the ballot language be clarified to prevent voter confusion by including the specific parcel numbers in the ballot language; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. Resolution 019-2025 is hereby repealed in its entirety and replaced with this Resolution.

SECTION 2. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 011-2025, a copy of which is attached hereto and hereby made a part hereof.

SECTION 3. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 4. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 011-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 5. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney, upon recommendation from the County Prosecutor as legal counsel for the Board of Elections to clarify the ballot language:

The remainder of the page intentionally left blank

RESOLUTION NO. 032-2025

REFERENDUM ON ORDINANCE NO. 011-2025

(By Petition)

City of Whitehall, Ohio

A majority affirmative vote is necessary for passage

Ordinance No. 011-2025 created the Fairway Boulevard Tax Increment Financing Incentive District and declared improvements to Parcel Nos. 090-001792-00 and 090-001776-00 within the district to be a public purpose and exempt from real property taxation, required the owners of the parcels to make service payments, and specified the public infrastructure improvements that benefit or serve parcels in the district. Whitehall City Council approved this ordinance at the request of the applicant seeking to redevelop this parcel to provide for additional housing units within the City consistent with the adopted Citywide development master plan.

	YES	Shall Ordinance No. 011-2025, creating the Fairway Boulevard Tax Increment Financing Incentive District, declaring improvements to Parcel Nos. 090-001792-00 and 090-001776-00 within the district to be a public purpose and exempt from real property taxation, requiring the owners of the parcels to make service payments, establishing a municipal public improvement tax increment equivalent fund for the service payments, and specifying the public infrastructure improvements that benefit or serve parcels in the district, be approved?
	NO	

SECTION 6. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare of this City and to provide sufficient notice the Franklin County Board of Elections to submit the question of approving Ordinance 009-2025 on the November 4, 2025, general election ballot.

SECTION 7. This Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

Requested and prepared by: Bradley S. Nicodemus, City Attorney
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 07/18/2025

RESOLUTION NO. 033-2025

DIRECTING THE SUBMISSION OF THE QUESTION OF APPROVING CITIZEN INITIATED ORDINANCE NO. 042-2025 AMENDING THE ZONING MAP TO ESTABLISH THE FAIRWAY BOULEVARD OVERLAY DISTRICT TO THE ELECTORS AT THE NOVEMBER 4, 2025 GENERAL ELECTION AND DECLARING AN EMERGENCY.

WHEREAS, on April 30, 2025, a petition committee of residents filed an Initiative Petition to adopt an ordinance creating the Fairway Boulevard Overlay District with the City Attorney;

WHEREAS, on May 7, 2025, the City Attorney certified the sufficiency of the initiative petition to the Clerk of Council;

WHEREAS, pursuant to Charter 15 and 53, Council referred the proposed ordinance to Planning Commission which conducted a public hearing and reported a favorable recommendation on June 16, 2025;

WHEREAS, on July 15, 2025, Council adopted petition committee submitted amendments to the proposed ordinance and then failed to adopt Ordinance 042-2025;

WHEREAS, on July 22, 2025, the petition committee, pursuant to Charter 15(i), submitted a proposed ordinance, with amendments, to be included on the November 4, 2025 ballot; and

WHEREAS, pursuant to Section 17(a) of the Whitehall City Charter, the City Attorney prepared a statement in clear and concise language descriptive of Ordinance No.042-2025 for inclusion on the ballots used for voting upon whether to approve Ordinance No. 042-2025; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1. That there be submitted to the electors of the City of Whitehall the question of whether to approve Ordinance No. 042-2025, as amended by the petition committee, a copy of which is attached hereto and hereby made a part hereof.

SECTION 2. That the Clerk of Council is directed to forthwith serve a certified copy of this resolution upon the Franklin County Board of Elections.

SECTION 3. That the Franklin County Board of Elections be and hereby is requested to place the question of whether Ordinance No. 042-2025 shall be approved upon the ballot to be submitted to the City's electors at the November 4, 2025, general election.

SECTION 4. That, in accordance with Section 17(a) of the Whitehall City Charter, the ballot language for the referendum shall contain the following statement prepared by the City Attorney:

The remainder of the page intentionally left blank

RESOLUTION NO. 033-2025

INITIATIVE ORDINANCE NO. 042-2025

(By Petition)

City of Whitehall, Ohio

A majority affirmative vote is necessary for passage

Ordinance No. 042-2025 is a proposed ordinance submitted by a committee of electors to amend the Zoning Code to establish the Fairway Boulevard Overlay District on Parcel Nos. 090-001774-00; 090-001812-00; 090-001819-00; 090-001775-00; 090-001776-00; 090-001010-00; 090-001777-00; 090-001735-00; 090-001778-00; 090-006752-00; 090-001780-00; 090-001781-00; and 090-001782-00, to limit its future uses, subdivision and infrastructure within said district, to amend the Zoning Map, to protect large trees, to impose a moratorium on development and to provide for a private right of action.

	YES	Shall Ordinance No. 042-2025, amend the Zoning Code to establish the Fairway Boulevard Overlay District, on Parcel Nos. 090-001774-00; 090-001812-00; 090-001819-00; 090-001775-00; 090-001776-00; 090-001010-00; 090-001777-00; 090-001735-00; 090-001778-00; 090-006752-00; 090-001780-00; 090-001781-00; and 090-001782-00, to limit its future uses, subdivision and infrastructure within said district, to amend the Zoning Map, to protect large trees, to impose a moratorium on development and to provide for a private right of action, be approved?
	NO	

SECTION 5. For the reasons in the preamble and the deadline to place this matter on the November ballot, this Resolution is deemed any emergency measure and shall be immediately effective.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

RESOLUTION NO. 025-2025

AUTHORIZING THE MAYOR TO ACCEPT MONETARY DONATIONS FOR THE FOOD TRUCK & FUN FEST.

WHEREAS, the City is seeking legislative authorization from the Council of the City of Whitehall to accept monetary donations made in support of the annual Food Truck & Fun Fest; and

WHEREAS, various local interests have donated approximately sixty-five thousand and 00/00 dollars (\$65,000.00) so far; and

WHEREAS, these funds are needed to provide the services necessary for a fun experience for all festival attendees; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That the Mayor is authorized to accept monetary donations made in support of the Food Truck & Fun Fest.

SECTION 2: That this resolution shall go into full force and effect immediately upon its passage and approval by the Mayor.

PASSED this _____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this _____ day of _____, 2025

Mayor

ORDINANCE NO. 070-2025

APPROVING AND MAKING A SUPPLEMENTAL APPROPRIATION OF FIFTY THOUSAND AND 00/00 DOLLARS (\$50,000.00) FROM PREVIOUSLY UNAPPROPRIATED MONIES IN THE GENERAL FUND (101) TO THE FOOD TRUCK & FUN FEST EXPENSE ACCOUNT (101.200.56150).

WHEREAS, construction activities on South Yearling Road have caused a change in venue for the festival; and

WHEREAS, this change created the need for redesigning the festival to fit the new location; and

WHEREAS, expenses for the annual Food Truck and Fun Fest have exceeded anticipated and budgeted activity;
NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That this Council approves and makes a supplemental appropriation of fifty thousand and 00/00 dollars (\$50,000.00) from previously unappropriated monies in the General Fund (101) to the Food Truck & Fun Fest expense account (101.200.56150).

SECTION 2: That the City Auditor is hereby authorized to draw his warrant upon the Treasurer of the City for these funds for the purpose stated in this ordinance.

SECTION 3: That this Ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025

Mayor

ORDINANCE NO 071-2025

APPROVING AND MAKING A FUND TRANSFER IN THE AMOUNT OF FOUR HUNDRED FIFTY SEVEN THOUSAND THREE HUNDRED SEVENTY-TWO AND 37/100 DOLLARS (\$457,372.37) FROM UNAPPROPRIATED MONIES IN THE WATER UTILITY FUND (841) TO THE DEBT SERVICE FUND (401).

WHEREAS, in 2024 the City borrowed funds for various waterline improvements; and

WHEREAS, Ordinance 102-2024 appropriated monies for the purpose of repayment; and

WHEREAS, the Auditor of State requires bond retirement payments and other long term debt be paid from the Debt Service Fund; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That the Council of the City of Whitehall approves and makes a fund transfer in the amount of four hundred fifty seven thousand three hundred seventy-two and 37/100 dollars (\$457,372.37) from unappropriated monies in the Water Utility Fund (841) to the Debt Service Fund (401).

SECTION 2: That the City Auditor is hereby authorized to draw his warrant upon the Treasurer of the City for these funds for the purpose stated in this Ordinance.

SECTION 3: That this Ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025

Mayor

ORDINANCE NO. 072-2025

AUTHORIZING AND APPROVING SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00) FROM UNAPPROPRIATED MONIES IN THE GENERAL FUND (101) TO THE UNEMPLOYMENT COMPENSATION EXPENSE ACCOUNT 101.900.51011.

WHEREAS, unemployment compensation paid out exceeds expectations; and

WHEREAS, additional monies are required for the unemployment compensation for 2025; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: The Council of the City of Whitehall, Ohio approves the supplemental appropriation in the amount of twelve thousand and no/100 dollars (\$12,000.00) from the General Fund (101) to Unemployment Compensation expense account (101.900.51011).

SECTION 2: That this Ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

RESOLUTION NO. 026-2025

RESOLVING TO APPROVE "THEN AND NOW" CERTIFICATES.

WHEREAS, O.R.C. 5705.41(D)(1) states that "then and now" certificates of three thousand dollars and no/100 (\$3,000.00) and more must be approved by resolution or ordinance within thirty days of receipt of the "then and now" certificates; and

WHEREAS, the City has processed the attached "then and now" certificates over the sum of three thousand dollars and now these certificates require approval by City Council; and

WHEREAS, the Auditor of the City of Whitehall, Ohio has determined that, at the time of the making and execution of the certificates, a sufficient sum was appropriated by Council for the purpose of the requisition, and is currently deposited in the treasury and allocated to the appropriate account and free from any previous encumbrances; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: That the City Council does hereby approve the attached "then and now" certificates:

SECTION 2: That the City Council of the City of Whitehall, Ohio, lawfully appropriated the expenditure, which the expense originated.

SECTION 3: That this Resolution shall go into full force and effect immediately upon its passage by the Council of the City of Whitehall and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

NUMBER	VENDOR	AMOUNT	ORDER DATE	PURCHASE PURPOSE	PURCHASE ORDER	INVOICE DATE	FUND & ACCOUNT
2025-HR-00286-A	5627 ARMOR RISK MANAGEMENT LLC	\$ 3,750.00	06/24/25	to pay for drug screens, psych exams, and backgrou	2025000813	05/01/25	101.450.52500
2025-Mayor-00414-A	03778 MCTIGUE & COLOMBO LLC	\$ 11,944.66	06/09/25	Legal services from 4/1/2025 -4/30/2025	2025000741	05/08/25	101.900.51000
2025-Service-03458-A	05220 GREAT LAKES PETROLEUM	\$ 4,434.86	06/25/25	Fleet Fuel/oil	2025000869	05/29/25	101.950.53850
2025-Service-03454-A	05220 GREAT LAKES PETROLEUM	\$ 5,886.96	06/25/25	Fleet Fuel/oil	2025000869	05/29/25	101.950.53850
2025-Service-03448-A	05220 GREAT LAKES PETROLEUM	\$ 6,430.20	06/25/25	Fleet Fuel/oil	2025000869	06/09/25	101.950.53850
2025-Auditor-03795-A	00073 OHIO BUREAU OF WORKERS' COMP	\$ 12,918.00	06/25/25	OHIO BUREAU OF WORKERS COMP	2025000840	05/30/25	101.950.59600
2025-Auditor-03791-A	01939 Julian & Grube Inc	\$ 11,960.00	06/25/25	2024 FINANCIAL STATEMENTS	2025000852	06/23/25	101.950.59600
2025-Service-03284-A	04931 RYCO ELECTRIC, LLC	\$ 26,320.00	06/13/25	Electric Project: PD Detective Area	2025000798	04/23/25	101.960.54500
2025-Pol-01108-A	04156 COUGHLIN CHRYSLER DODGE JEEP	\$ 16,000.00	06/23/25	Under Cover Vehicle - 2025 Jeep Grand Cherokee	2025000821	05/22/25	241.000.50000
2025-Service-03304-A	04639 TAPCO	\$ 10,868.47	06/20/25	Flashing Stop Signs	2025000823	03/19/25	312.000.54000
2025-Mayor-00426-A	01852 Rite Rug COMPANY INC	\$ 422,677.32	06/09/25	Incentives Payment (tax reimbursement)	2025000776	05/02/25	316.000.50000
2025-Auditor-03783-A	04114 UMR	\$ 43,526.11	06/25/25	2025 STOP LOSS FEES	2025000861	06/23/25	511.000.50000
		\$ 576,716.58					

ORDINANCE NO. 061-2025

AN ORDINANCE ADOPTING CHAPTER 512 OF THE CODIFIED ORDINANCES OF THE CITY OF WHITEHALL ESTABLISHING UNLAWFUL DISCRIMINATORY PRACTICES IN THE CITY OF WHITEHALL AND DECLARING AN EMERGENCY.

WHEREAS, the City of Whitehall wishes to affirm the City's policies prohibiting discrimination on the basis of race, color, religion, sex, national origin, immigration status, age, familial status, disability, pregnancy, sexual orientation, gender identify, or gender expression; and

WHEREAS, Council desires to adopt local prohibitions on discrimination, and to supplement existing federal and state prohibitions to prohibit discrimination on the basis of race, color, religion, sex, national origin, immigration status, age, familial status, disability, pregnancy, sexual orientation, gender identify, or gender expression; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: Chapter 512, attached hereto as Exhibit A and incorporated herein, be adopted into Part Five of the Whitehall Codified Ordinances.

SECTION 2: That this Ordinance shall go into full force and effect immediately upon its passage and approval by the Mayor.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

CHAPTER 512 Unlawful Discrimination

512.01 Purpose

512.02 Definitions.

512.03 Unlawful discriminatory employment practices.

512.04 Unlawful discriminatory housing practices.

512.05 Unlawful discriminatory practices in public accommodations.

512.06 Conversion therapy prohibited

512.07 Complaint procedure.

512.08 Complaints alleging unlawful discriminatory practices by the City of Whitehall

512.09 Failure to comply with subpoena.

512.10 Failure to comply with an order of the Hearing Officer.

512.11 Failure to pay financial sanctions imposed by the Hearing Officer.

512.12 – 512.97 Reserved

512.98 Severability

512.01 PURPOSE.

It is the intent of the City of Whitehall to create safeguards and protections against discrimination and intimidation based on race, religion, ethnicity, national origin, sex, disability, military status, family or marital status, sexual orientation, gender identity or expression, and natural hairstyle and/or texture.

512.02 DEFINITIONS.

As used in this chapter:

- (a) "Age" means at least forty years old, except as otherwise provided in this chapter.
- (b) "Aggrieved individual" means an individual who claims to have been injured by an unlawful discriminatory act or practice described in this chapter.
- (c) "Burial lot" means any lot for the burial of deceased individuals within any public burial ground or cemetery, including, but not limited to, cemeteries owned and operated by companies or associations incorporated for cemetery purposes.
- (d) "City Attorney" means the individual elected, pursuant to Section 26 of the Whitehall Charter, or the designee of such individual.

- (e) "Common use areas" means rooms, spaces, or elements inside or outside a building that are made available for the use of residents of the building or their guests, and includes, but is not limited to, hallways, lounges, lobbies, laundry rooms, refuse rooms, mail rooms, recreational areas, and passageways among and between buildings.
- (f) "Complainant" means an aggrieved individual who, pursuant to the provisions of this chapter, files with the Clerk of Council a written complaint alleging an unlawful discriminatory act or practice.
- (g) "Controlled substance" has the same meaning as in R.C. § 3719.01.
- (h) "Covered multifamily dwellings" means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.
- (i) "Conversion Therapy" means any practices or treatments that seek to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy shall not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral intervention to prevent or address conduct or unsafe practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.
- (j) "Disability" or "disabled" with respect to an individual means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment. "Disability" does not include any physiological disorder or condition, mental or psychological disorder, or disease or condition caused by an illegal use of any controlled substance by an employee, applicant, or other individual, if an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee acts on the basis of that illegal use.
- (k) "Disabled tenant" means a tenant or prospective tenant who is an individual with a disability.
- (l) "Discriminate" means to differentiate and treat differently, including to segregate or separate.
- (m) "Discriminatory restrictive covenant" means any specification in a deed, land contract, or lease limiting the transfer, rental, lease, or other use of any housing accommodations because of race, color, religion, sex, national origin, age, familial status, disability, pregnancy, sexual orientation, gender identity, or gender expression, as a condition of affiliation or approval.
- (n) "Dwelling unit" means a single unit of residence for a family of one or more individuals.

- (o) "Employee" means an individual employed by any employer but does not include any individual employed in the domestic service of any person.
- (p) "Employer" includes any person who regularly employs for compensation four or more individuals, excluding the employer's parents, spouse, and children, including any person acting directly or indirectly in the interest of an employer, provided "employer" does not include a public school system, or an agency of government other than the City.
- (q) "Employment agency" includes any person regularly undertaking, with or without compensation, to procure opportunities for employment or to procure, recruit, refer, or place employees.
- (r) "Familial status" means having either of the following family characteristics, where "family" also includes an individual:
 - (1) One or more individuals who are under eighteen years of age and who are domiciled with a parent or guardian having legal custody of the individual or domiciled, with the written permission of the parent or guardian having legal custody, with a designee of the parent or guardian;
 - (2) Any individual who is pregnant or in the process of securing legal custody of any individual who is under eighteen years of age.
- (s) "Gender expression" means external manifestations of gender, expressed through one's behavior or appearance, that may or may not be those traditionally associated with the individual's assigned sex at birth.
- (t) "Gender identity" means an individual's sense of having, or being perceived as having, a gender that may or may not be traditionally associated with the individual's assigned sex at birth.
- (u) "Hearing Officer" means a neutral independent contractor, hired by the City, who conducts an administrative hearing based on a complaint filed pursuant to the provisions of this chapter.
- (v) "Housing accommodations" includes any building or structure, or portion of a building or structure, that is used or occupied or is intended, arranged, or designed to be used or occupied as the home residence, dwelling, dwelling unit, or sleeping place of one or more individuals, groups, or families whether or not living independently of each other; and any vacant land offered for sale or lease. "Housing accommodations" also includes any housing accommodations held or offered for sale or rent by a real estate broker, salesperson, or agent, by any other person pursuant to authorization of the owner, by the owner, or by the owner's legal representative. "Housing accommodations" does not include any housing accommodations owned or operated by a religious organization when they are owned or operated for other than a commercial purpose and offered to individuals of the same religion.
- (w) "Labor organization" includes any organization that exists, in whole or in part, for the purpose of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in relation to employment.

- (x) "Mayor" means the individual elected, pursuant to Section 23 of the Whitehall Charter.
- (y) "Mental health professional" means an individual who is licensed, certified, or registered under the laws of the state of Ohio to provide to an individual or group mental health services, including but not limited to, the assessment or improvement of mental, emotional, psychiatric, psychological, or psychosocial adjustment or functioning, regardless of whether there is a diagnosable, pre-existing disorder, or disease. Mental health professions include, but are not limited to, physicians specializing in the practice of psychiatry, psychologists, marriage and family therapists, licensed clinical social workers, professional clinical counselors, behavioral clinicians or therapists, nurses or any other persons offering such mental health services.
- (z) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of individuals. "Person" also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesperson, appraiser, agent, employee, or lending institution.
- (aa) "Physical or mental impairment."
 - (1) "Physical or mental impairment" means any of the following except as provided in division (y)(2) of this section:
 - A. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;
 - B. Any mental or psychological disorder, including, but not limited to, intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
 - C. Diseases, blood disorders and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, intellectual disability, emotional illness, drug addiction, and alcoholism.
 - (2) "Physical or mental impairment" does not mean any of the following:
 - A. Pedophilia, exhibitionism, voyeurism, or other sexual behavior disorders;
 - B. Compulsive gambling, kleptomania, or pyromania;
 - C. Psychoactive substance use disorders resulting from the current illegal use of a controlled substance.
- (bb) "Place of public accommodation" means any inn, restaurant, eating house, hotel, motel, bank or other financial services institution, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of merchandise, or any other place of public accommodation or amusement where the accommodations, advantages, facilities, or privileges are available to the public, provided it shall not apply to accommodations of a public education system, or an agency of government other than the City.

- (cc) "Protected class" means a classification of individuals based on one or more of the following characteristics: race, color, religion, sex, national origin, age, familial status, disability, pregnancy, sexual orientation, gender identity, or gender expression.
- (dd) "Public use areas" means interior or exterior rooms or spaces of a privately owned building that are made available to the general public.
- (ee) "Religious organization" means a not for profit church or integrated auxiliary of a church, as those terms are used by the United States Internal Revenue Service and includes any school that incorporates substantial religious teachings or religious practices of that church in that school. Religious organization does not include any hospital or medical facility that offers medical services to the general public.
- (ff) "Respondent" means the person who is alleged to have committed or is alleged to be committing unlawful discriminatory act(s) or practices and who is identified in a written complaint filed by a complainant.
- (gg) "Senior citizen" means an individual at least sixty years old.
- (hh) "Service animal" means a dog individually trained to do work or perform tasks for the benefit of an individual with a disability and includes an "assistance dog" as provided in R.C. § 955.011. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.
- (ii) "Sex" means the biological sex of either male or female assigned at the birth of each individual.
- (jj) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality.
- (kk) "Source of income" means a lawful financial resource or form of assistance which the recipient appropriately discloses, and which can be verified and substantiated as derived from wages, investments, trusts, child support, spousal support, grant or loan program, and all forms of federal, state, or local assistance payments, benefits, or subsidy programs including but not limited to vouchers for rent or housing, foster child assistance, public assistance emergency rental assistance, veterans benefits, social security, supplemental security income or other retirement programs, or programs administered by any federal, state, or local government, or a nonprofit entity.
- (ll) "Unlawful discriminatory practice" means any act or practice prohibited by this chapter.

512.03 UNLAWFUL DISCRIMINATORY EMPLOYMENT PRACTICES.

(a) It shall be an unlawful discriminatory employment practice, except where based upon applicable national security regulations established by the United States:

(1) For any employer, because of an individual being in a protected class, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that individual with respect to hiring, compensation, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment.

(2) For an employment agency or personnel placement service, because of an individual being in a protected class, to do any of the following:

A. Refuse or fail to accept, register, classify properly, or refer for employment, or otherwise discriminate against any individual;

B. Comply with a request from an employer for referral of applicants for employment, if the request directly or indirectly indicates that the employer fails to comply with the provisions of this chapter.

(3) For any labor organization to do any of the following:

A. Limit or restrict its membership on the basis of an individual being in a protected class;

B. Discriminate against, limit the employment opportunities of, or otherwise adversely affect the employment status, wages, hours, or employment conditions of any individual as an employee because of that individual being in a protected class.

(4) For any employer, labor organization, or joint labor-management committee controlling apprentice training programs to discriminate against any individual because of that individual being in a protected class, in admission to, or employment in, any program established to provide apprentice training.

(5) Except where based on a bona fide occupational qualification certified in advance by an agency of the state or Federal government or a political subdivision, for any employer, employment agency, personnel placement service, or labor organization, prior to employment or admission to membership, to do any of the following:

A. Elicit or attempt to elicit any information concerning the protected class status of an applicant for employment or membership;

B. Use any form of application for employment, or personnel or membership blank, seeking to elicit information regarding an individual's protected class status; provided an employer holding a contract containing a nondiscrimination clause with the government of the United States, or any department or agency of that government, may require an employee or applicant for employment to furnish documentary proof of United States citizenship and may retain that proof in the employer's personnel records and may use photographic or fingerprint identification for security purposes;

C. Follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group of individuals because of the protected class status of the individuals in that group;

D. Utilize in the recruitment or hiring of individuals any employment agency, personnel placement service, training school or center, labor organization, or any other employee-referring source known to discriminate against individuals because of their being in a protected class.

(6) For any employer to discriminate against an individual with a disability in any of the following ways:

A. By limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee.

B. By denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such employer to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

C. By failing to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual who is an applicant or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer.

D. By denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, on the basis of such disabled individual's use of a service animal, provided nothing in this chapter shall be construed to require any employer, as a reasonable accommodation, to provide a service animal to a disabled individual.

(7) For any employer to discriminate against a woman affected by pregnancy, childbirth, or related medical conditions for any employment-related purposes, including receipt of benefits under fringe benefit programs, or to fail to treat a woman so affected the same as other individuals not so affected but similar in their ability or inability to work.

(8) For any employer to discriminate against an employee or potential employee on the basis of age in offering any job opening or in the discharge of an employee without just cause who is physically able to perform the duties and otherwise meets the established requirements of the job and laws pertaining to the relationship between employer and employee.

(b) With regard to age, it shall not be an unlawful discriminatory practice and it shall not constitute a violation of this chapter for any employer, employment agency, joint labor-management committee controlling apprenticeship training programs, or labor organization to do any of the following:

(1) Establish bona fide employment qualifications reasonably related to the particular business or occupation that may include standards for skill, aptitude, physical capability, intelligence, education, maturation, and experience;

(2) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, including, but not limited to, a retirement, pension, or insurance plan, that is not a subterfuge to evade the purposes of this section. However, no such employee benefit plan shall excuse the failure to hire any individual, and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual, because of the individual's age except as provided for in the "Age Discrimination in Employment Act Amendment of 1978", 29 U.S.C.A. 623, as amended by the "Age Discrimination in Employment Act Amendments of 1986," 29 U.S.C.A. 623, as amended, or as later amended.

(3) Retire an employee who has attained sixty-five years of age who, for the two-year period immediately before retirement, was employed in a bona fide executive or a high policymaking position, if the employee is entitled to an immediate nonforfeitable annual

retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans of the employer of the employee, which equals, in the aggregate, at least forty-four thousand dollars (\$44,000), in accordance with the conditions of the "Age Discrimination in Employment Act Amendment of 1978", 29 U.S.C.A. 631, as amended by the "Age Discrimination in Employment Act Amendments of 1986", 29 U.S.C.A. 631, as amended, or as later amended;

(4) Observe the terms of any bona fide apprenticeship program if the program is registered with the Ohio Apprenticeship Council pursuant to R.C. §§ 4139.01 to 4139.06 and is approved by the Federal Committee on Apprenticeship of the United States Department of Labor.

(c) Nothing in this chapter shall be construed to prohibit any of the following:

(1) The designation of uniform age the attainment of which is necessary for public employees to receive pension or other retirement benefits pursuant to R.C. Chapter 145, 742, 3307, 3309, or 5505;

(2) The establishment of maximum age requirements for original appointment to a police department or fire department pursuant to R.C. §§ 124.41 and 124.42;

(3) Any establishment of a maximum age not in conflict with Federal law that may be established by a municipal charter, municipal ordinance, or resolution of a board of township trustees for original appointment as a police officer or firefighter;

(4) Any establishment of a mandatory retirement provision not in conflict with Federal law, a municipal charter, municipal ordinance, or resolution of a board of township trustees pertaining to police officers and firefighters.

(d) Nothing in this section shall be construed to require an individual with a disability to be employed or trained under circumstances that would significantly increase the occupational hazards affecting either the individual with a disability, other employees, the general public, or the facilities in which the work is to be performed, or to require the employment or training of an individual with a disability in a job that requires the individual with a disability routinely to undertake any task, the performance of which is substantially and inherently impaired by the individual's disability.

(e) Nothing in this chapter shall prohibit an employer, employment agency, personnel placement service, labor organization, or joint labor-management committee from doing any of the following:

(1) Adopting or administering reasonable policies or procedures, including, but not limited to, testing for the illegal use of any controlled substance, that are designed to ensure that an individual no longer is engaging in the illegal use of any controlled substance. For purposes of this chapter, a test to determine the illegal use of any controlled substance does not include a medical examination;

(2) Prohibiting the illegal use of controlled substances and the use of alcohol at the workplace by employees;

(3) Requiring that employees not be under the influence of alcohol or not be engaged in the illegal use of any controlled substance at the workplace;

(4) Requiring that employees behave in conformance with the requirements established under "The Drug-Free Workplace Act of 1988", 41 U.S.C.A. 701, as amended;

(5) Holding an employee who engages in the illegal use of any controlled substance or who is an alcoholic to the same qualification standards for employment or job performance, and the same behavior, to which the employer, employment agency, personnel placement service, labor organization, or joint labor-management committee holds other employees, even if any unsatisfactory performance or behavior is related to an employee's illegal use of a controlled substance or alcoholism;

(6) Exercising other authority recognized in the "Americans with Disabilities Act of 1990", 42 U.S.C.A. 12101, as amended, including, but not limited to, requiring employees to comply with any applicable Federal standards.

(f) This section does not apply to a religious corporation, association, educational institution, or society with respect to the employment of an individual of a particular religion to perform work connected with the carrying on by that religious corporation, association, educational institution, or society of its activities.

(g) Whoever violates this section is guilty of an unlawful discriminatory employment practice.

512.04 UNLAWFUL DISCRIMINATORY HOUSING PRACTICES.

(a) Subject to the limitations, exceptions, and qualifications provided in R.C. § 4112.024, it shall be an unlawful discriminatory housing practice for any person to do any of the following:

(1) Refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of an individual being in a protected class;

(2) Represent to any individual that housing accommodations are not available for inspection, sale, or rental, when in fact they are available, and the representation of unavailability is based on the individual seeking such housing accommodations being in a protected class;

(3) Discriminate against any individual in the making or purchasing of loans or the provision of other financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations, or any individual in the making or purchasing of loans or the provision of other financial assistance that is secured by residential real estate, because of that individual being in a protected class, or because the neighborhood in which the housing accommodations are located is composed of one or more protected classes, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any individual in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because the individual is in a protected class, or because of the composition, in terms of protected class, of the neighborhood in which the housing accommodations are located;

(5) Discriminate against any individual in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of the individual being in a protected class, or because of the composition, in terms of protected class, of the neighborhood in which the housing accommodations are located;

(6) Refuse to consider without prejudice the combined income of both lawfully-married spouses for the purpose of extending mortgage credit to a married couple or either member of a married couple;

(7) Except as otherwise provided in this section, make any inquiry, elicit any information, or use any form of application containing questions or entries concerning an individual's protected class status in connection with the sale or lease of any housing accommodations or the loan of any money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations. Any person may make inquiries, and make and keep records, concerning an individual's protected class status for the purpose of monitoring compliance with this chapter.

(8) Include in any deed, land contract, transfer, rental, or lease of housing accommodations any discriminatory restrictive covenant, or honor or exercise, or attempt to honor or exercise, any discriminatory restrictive covenant;

(9) Induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that a change has occurred or may occur with respect to the protected class composition of the block, neighborhood, or other area in which the housing accommodations are located, or induce or solicit, or attempt to induce or solicit, a housing accommodations listing, sale, or transaction by representing that the presence or anticipated presence of individuals of any protected class in the block, neighborhood, or other area will or may have results including, but not limited to, the following:

- A. The lowering of property values;
- B. A change in the composition, in terms of a protected class, of the block, neighborhood, or other area;
- C. An increase in criminal or antisocial behavior in the block, neighborhood, or other area;
- D. A decline in the quality of the schools serving the block, neighborhood, or other area.

(10) Discourage or attempt to discourage the purchase by a prospective purchaser of housing accommodations, by representing that any block, neighborhood, or other area has undergone or might undergo a change in composition with respect to a protected class;

(11) Deny any individual access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or discriminate against any individual in the terms or conditions of that access, membership, or participation, because of the individual being in a protected class;

(12) Discriminate in any manner against any individual because that individual has opposed any unlawful practice defined in this chapter, or because that individual has made a charge, testified, assisted, or participated in any manner, in any investigation, proceeding, or hearing under the provisions of this chapter;

(13) Refuse to sell, transfer, assign, rent, lease, sublease, or finance, or otherwise deny or withhold, a burial lot from any individual because of that individual being in a protected class, or because of any prospective owner or user of the lot being in a protected class;

(14) Discriminate in the sale or rental of, or otherwise make unavailable or deny, housing accommodations to any buyer or renter because of the protected class status of any of the following:

- A. The buyer or renter;
- B. An individual residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;
- C. Any individual associated with the individual described in this section.

(15) Discriminate in the terms, conditions, or privileges of the sale or rental of housing accommodations to any individual or in the provision of services or facilities to any individual in connection with the housing accommodations because of the protected class status of any of the following:

- A. That individual;
- B. An individual residing in or intending to reside in the housing accommodations after they are sold, rented, or made available;
- C. Any individual associated with the individual described in division (a)(15)A. or (a)(15)B. of this section.

(16) Except as otherwise provided in this section, make an inquiry of an applicant to determine the protected class status of the applicant for the sale or rental of housing accommodations, an individual residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with such individuals. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of the applicant's protected class:

- A. An inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- B. An inquiry to determine whether an applicant is qualified for housing accommodations available only to individuals with disabilities or individuals with a particular type of disability;

C. An inquiry to determine whether an applicant is qualified for a priority available to individuals with disabilities or individuals with a particular type of disability;

D. An inquiry to determine whether an applicant currently uses a controlled substance in violation of R.C. § 2925.11 or a substantively comparable municipal ordinance;

E. An inquiry to determine whether an applicant at any time has been convicted of or pleaded guilty to any offense, an element of which is the illegal sale, offer to sell, cultivation, manufacture, other production, shipment, transportation, delivery, or other distribution of a controlled substance.

(17) Refuse to permit, at the expense of an individual with a disability, reasonable modifications of existing housing accommodations that are occupied or to be occupied by the individual with a disability, if the modifications may be necessary to afford the individual with a disability full enjoyment of the housing accommodations. This division does not preclude a landlord of housing accommodations that are rented or to be rented to a disabled tenant from conditioning permission for a proposed modification upon the disabled tenant's doing one or more of the following:

A. Providing a reasonable description of the proposed modification and reasonable assurances that the proposed modification will be made in a workerlike manner and that any required building permits will be obtained prior to the commencement of the proposed modification;

B. Agreeing to restore at the end of the tenancy the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if it is reasonable for the landlord to condition permission for the proposed modification upon the agreement;

C. Paying into an interest-bearing escrow account that is in the landlord's name, over a reasonable period of time, a reasonable amount of money not to exceed the projected costs at the end of the tenancy of the restoration of the interior of the housing accommodations to the condition they were in prior to the proposed modification, but subject to reasonable wear and tear during the period of occupancy, if the landlord finds the account reasonably necessary to ensure the availability of funds for the restoration work. The interest earned in connection with an escrow account described in this division shall accrue to the benefit of the disabled tenant who makes payments into the account.

(18) Condition permission for a proposed modification of a dwelling unit upon a disabled tenant's payment of a security deposit that exceeds the customarily required security deposit of all tenants of the particular housing accommodations.

(19) Refuse to make reasonable accommodations in rules, policies, practices, or services when necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling unit, including associated public and common use areas;

(20) Fail to comply with the standards and rules adopted under division (A) of R.C. § 3781.111;

(21) Discriminate against any individual in the selling, brokering, or appraising of real property because of the individual being in a protected class;

(22) Fail to design and construct covered multifamily dwellings for first occupancy in accordance with the following conditions:

A. The dwellings shall have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

B. With respect to dwellings that have a building entrance on an accessible route, all of the following apply:

1. The public use areas and common use areas of the dwellings shall be readily accessible to and usable by an individual with a disability.

2. All the doors designed to allow passage into and within all premises shall be sufficiently wide to allow passage by an individual with a disability who is in a wheelchair.

3. All premises within covered multifamily dwelling units shall contain an accessible route into and through the dwelling; all light switches, electrical outlets, thermostats, and other environmental controls within such units shall be in accessible locations; the bathroom walls within such units shall contain reinforcements to allow later installation of grab bars; and the kitchens and bathrooms within such units shall be designed and constructed in a manner that enables an individual in a wheelchair to maneuver about such rooms.

(23) Refuse to rent or lease a housing accommodation, or serve a notice of termination of tenancy, commence a forcible entry and detainer action on grounds not authorized by Ohio law, or otherwise deny to or withhold from any person or persons, the rental or leasing of a housing accommodation on the basis of an income amount that fails to include any source of income, as such is defined in this chapter.

(24) Refuse to rent or lease a housing accommodation, or serve a notice of termination of tenancy, commence a forcible entry and detainer action on grounds not authorized by Ohio law, or otherwise deny to or withhold from any person or persons, the rental or leasing of a housing accommodation on the basis of the landlord's expected or actual increase in administrative obligations or additional expenses incurred by the landlord due to the tenant's source of income, where such increased obligations or expenses include but are not limited to inspection requirements of, or necessity to verify, participate in, or receive payment from, programs administered by any federal, state, or local government, or a nonprofit entity. Notwithstanding this prohibition, a landlord may require a tenant or prospective tenant to do the following at the tenant's expense or from some other lawful source of income:

A. Complete background screening inquiries or lawful criteria established prior to tenant's application and requested of all prospective tenants.

B. Pass a review and verification of tenant's prior rental history, criminal background, credit report, and utility payment history.

C. Pay a security deposit.

D. Pay the market rental rate for a housing accommodation.

(25) Rent or lease a housing accommodation upon different terms or conditions to a tenant on the basis of the tenant's source of income, including but not limited to charging an additional or increased amount of security deposit, increased rental rate or fees, or limiting, restricting, or prohibiting a tenant's privileges, access to or use of common facilities or areas in a manner that is not otherwise applicable to all tenants. Nothing herein prevents a landlord from charging a different security deposit, rental rate, or fee if that difference is directly and proportionally related to physical differences in the housing accommodations or the prospective tenant's proposed use thereof.

(26) Represent to any person, on the basis of an income amount that fails to include any source of income, as such is defined in this chapter, that a housing accommodation is not available for inspection or rental, when such housing accommodation is in fact available for inspection or rental.

(27) For any person to discriminate in any manner against any individual because that individual has opposed any unlawful discriminatory practice defined in this section or because that individual has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing under this chapter or R.C. §§ 4112.01 to 4112.07.

(28) For any person to knowingly aid or abet the doing of any act declared by this section to be an unlawful discriminatory practice, to knowingly obstruct or prevent any person from complying with this chapter or any order issued under it, or to knowingly attempt directly or indirectly to commit any act declared by this section to be an unlawful discriminatory practice.

(b) Nothing in this chapter shall bar any bona fide private or fraternal organization that, incidental to its primary purpose, owns or operates lodgings for other than a commercial purpose, from limiting the rental or occupancy of the lodgings to its members or from giving preference to its members.

(c) Nothing in this chapter limits the applicability of any reasonable local, state, or Federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.

(d) Nothing in this chapter prohibits the owners or managers of housing accommodations from implementing reasonable occupancy standards based on the number and size of sleeping areas or bedrooms and the overall size of a dwelling unit, provided that the standards are not implemented to circumvent the purposes of this chapter and are formulated, implemented, and interpreted in a manner consistent with this chapter and any applicable local, state, or Federal restrictions regarding the maximum number of occupants permitted to occupy housing accommodations.

(e) Nothing in this chapter requires that housing accommodations be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(f) Nothing in this chapter pertaining to unlawful discriminatory housing practice shall be construed to apply to "housing for older persons" as defined and provided in section 42 U.S.C. 3607 (b)(2), as amended.

(g) Nothing in this chapter shall be construed to require any person selling or renting property to modify the property in any way or to exercise a higher degree of care for an individual with a disability, to relieve any individual with a disability of any obligation generally imposed on all individuals regardless of disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract.

(h) Whoever violates this section is guilty of unlawful discrimination in housing accommodations.

512.05 UNLAWFUL DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS.

(a) No owner, operator, or manager of a place of public accommodation shall deny to any individual or permit any employee to deny to any individual, except for reasons applicable alike to all individuals regardless of them being in a protected class, the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation.

(b) No owner, operator, or manager of a place of public accommodation shall deny to any individual with a disability the full enjoyment of the accommodations, advantages, facilities, or privileges of the place of public accommodation on the basis of such individual's use of a service animal, provided:

(1) The disabled individual using the service animal may be prohibited from having the service animal present in the place of public accommodation if:

A. The animal is out of control, as provided by 28 CFR 35.136(d), and the animal's handler does not take effective action to control it; or

B. The animal is not housebroken.

(2) If it is not readily apparent what service a service animal provides, the owner, operator, manager, or an employee of a place of public accommodation may make the following two inquiries:

A. Whether the service animal is required because of the disabled individual's disability, provided an inquiry may not be made as to:

1. The disabled individual's disability; or
2. The disabled individual's medical condition or requirements.

B. What work or tasks has the dog been trained to perform, provided an inquiry may not be made as to any special identification or training documentation for the dog, and the dog shall not be required to demonstrate its training or abilities.

(3) The owner, operator, manager, or employees of a place of public accommodation are not required to provide care or food for the service animal.

(c) No person shall aid, abet, or participate in the doing of any act declared to be an unlawful discriminatory practice under this section.

(d) Unless otherwise prohibited by law, nothing in this section shall be construed to prohibit any person from offering senior citizen price discounts or other privileges exclusively for the benefit of senior citizens.

(e) Nothing in this section shall prohibit a religious or denominational institution, organization, society or association or any nonprofit charitable or education organization that is operated, supervised, or controlled by or in connection with a religious organization from limiting its offerings of goods, services, facilities, and accommodations to persons of the same religion, or from giving preference to such persons, provided that such offerings mentioned above are not, in fact, offered for commercial purposes or supported by public funds.

(f) Whoever violates this section is guilty of unlawful discrimination in public accommodations.

512.06 CONVERSION THERAPY PROHIBITED

(a) No mental health professional shall engage or cause another to engage in conversion therapy with a minor, without regard to whether the mental health professional is compensated or received any for a remuneration for his or her services.

(b) A violation of this section shall be an unlawful discriminatory act or practice.

512.07 COMPLAINT PROCEDURE.

(a) Filing of the complaint.

(1) An aggrieved person, complainant, may file with the Whitehall Clerk of Council a written complaint sworn under oath which specifies the facts and circumstances, including the location, date(s), and time(s), of alleged unlawful discriminatory act(s) or practices that did or are occurring within the City limits and which identifies the person who committed or continues to commit the alleged unlawful discriminatory act(s) or practices.

(2) If the charge of discrimination alleges a violation based on race, sex, ethnicity, national origin, religion, age, disability, military status, and/or any other class protected under state or federal law, then the Clerk of Council shall instruct the complainant to file a charge of discrimination with the Ohio Civil Rights Commission (OCRC)/Equal Employment Opportunity Commission (EEOC). The Clerk of Council shall provide the complainant with the information about this requirement and contact information for the OCRC/EEOC within ten (10) days from the date the charge was filed with the Clerk.

(3) Concurrent with the filing of the complaint, the complainant shall provide to the Clerk of Council in writing the complainant's mailing address, telephone number, if any, and email address, if any.

(4) The complaint shall not be accepted by the Clerk of Council if any of the following apply:

A. The complaint is presented to the Clerk of Council more than one hundred eighty (180) days following the most recent unlawful discriminatory act alleged in the complaint;

B. No incident location provided in the complaint is within the City of Whitehall;

C. The investigation of the complaint is required to be conducted pursuant to the terms of a collective bargaining agreement to which the City is a party;

D. The complaint fails to include all the information required by (a)(1) of this section;

E. The complainant fails to concurrently provide a writing that includes the information required in (a)(2) of this section.

(5) Upon receiving a complaint of an alleged unlawful discriminatory act, the Clerk of Council shall immediately date stamp the complaint and:

A. Forward a copy thereof to the City Attorney; and

B. Mail by certified or registered mail, return receipt requested, certified copies of the complaint to the respondent.

(6) The Clerk of Council shall retain the original date-stamped complaint and shall open and maintain a file on the matter during the pendency of any actions related to the complaint and for so long thereafter as is necessary to comply with the City's Records Retention Schedule.

(b) Investigation by City Attorney.

(1) Upon receipt of the complaint, the City Attorney or a designee of the City Attorney shall investigate the complaint to determine if probable cause exists to believe a violation of this chapter has occurred.

(2) As part of said investigation, the City Attorney shall be permitted to issue an administrative subpoena for documents pursuant to Section 501.17.

(3) If the City Attorney determines the most recent of the unlawful discriminatory acts alleged in the complaint occurred more than one hundred eighty (180) days before the date the complaint was filed with the Clerk of Council or that none of the alleged acts occurred within the City of Whitehall, the City Attorney shall have no authority to investigate or take further actions except to return the complaint to the Clerk of Council with written notice to the Clerk of Council that the complaint is outside the authority of the City Attorney.

(4) Except as otherwise provided in this section, the City Attorney shall be authorized to mediate complaints, issue findings of fact and conclusions of law, issue cease and desist orders, and issue a formal recommendation.

(5) If the City Attorney finds, after investigation, that there is probable cause to determine that the respondent has committed an act of unlawful discrimination under this chapter, the City Attorney shall file and forward the complaint with the Whitehall Clerk of Council with a recommendation to refer the complaint to a Hearing Officer.

(6) If the City Attorney finds, after investigation, that there is insufficient evidence to establish probable cause that respondent has committed an act of unlawful discrimination under this chapter, the City Attorney shall dismiss the complaint and mail notice of dismissal to the complainant and the respondent by certified mail, return receipt requested.

(c) Hearing Officer.

(1) Upon receipt of the recommendation of the City Attorney that probable cause exists to determine the respondent has committed an act of unlawful discrimination under this chapter, the Clerk of Council shall forward the recommendation to the Mayor.

(2) The Mayor shall, upon receipt of the recommendation from the City Attorney, appoint a Hearing Officer who shall be an attorney licensed to practice law in the State of Ohio.

(3) If a Hearing Officer is appointed, the Hearing Officer shall conduct an administrative hearing. In the hearing, the Hearing Officer shall take testimony and considering evidence presented by and on behalf of the complainant and the respondent respectively. After the hearing is concluded, the Hearing Officer shall issue findings of fact and conclusions of law, and if the Hearing Officer, in the Hearing Officer's sole discretion, deems it appropriate, the Hearing Officer may issue orders and impose sanctions provided in this chapter.

(4) If the Hearing Officer determines that the respondent is engaged in an unlawful discriminatory act or practice under this chapter, the final decision of the Hearing Officer may include the issuance to the respondent of orders to cease and desist the unlawful discriminatory acts or practices. Any orders to cease and desist shall specify a time period for the respondent's compliance.

(5) If the Hearing Officer determines that the respondent did engage in, or continues to engage in, an unlawful discriminatory act or practice under this chapter, the final decision of the Hearing Officer may include the imposition upon the respondent of the following:

A. Reasonable costs of the administrative hearing, provided the cost of the Hearing Officer's services shall not be assessed against the respondent.

B. Reasonable attorney fees incurred by the complainant.

C. The imposition of a civil penalty in an amount not to exceed one thousand dollars (\$1,000); or two thousand five hundred dollars (\$2,500) if the respondent has committed a violation of this chapter during the five (5)-year period preceding the date on which the complaint was filed.

(6) The final decision of the Hearing Officer may not include any orders for reinstatement of employment, refund of monies paid, other mitigation of damages, or any other orders for corrections or sanctions, except as provided in this section.

(7) The final decision of the Hearing Officer may be appealed pursuant to the provisions of R.C. Chapter 2505.

(8) The final decision issued by the Hearing Officer shall be in a writing served by ordinary United States Mail on the respondent and the complainant. The documents shall be deemed received and properly served upon the respondent five (5) days following the mailing thereof. Copies of the final decision shall also be sent to the Clerk of Council and the City Attorney.

503.08 COMPLAINTS ALLEGING UNLAWFUL DISCRIMINATORY PRACTICES BY THE CITY OF WHITEHALL.

If a complaint is filed with the Clerk of Council alleging that the City, or one (1) of its boards, commissions, departments, divisions, officials, or employees has engaged or is engaging in an unlawful discriminatory practice as defined by this chapter, the following procedures shall apply:

- (a) Upon receipt of the complaint pursuant to Section 503.07(a), the City Attorney shall forward a copy of the complaint to City Council.
- (b) City Council shall appoint a special counsel to conduct a preliminary investigation instead of the City Attorney.
- (c) The City Council shall appoint a Hearing Officer to conduct a determination instead of the Mayor appointing the Hearing Officer.

512.09 FAILURE TO COMPLY WITH SUBPOENA.

No person shall fail to comply with a subpoena issued by the Hearing Officer. Whoever violates this section is guilty of failure to comply with a Whitehall subpoena, a misdemeanor of the fourth degree.

512.10 FAILURE TO COMPLY WITH AN ORDER OF THE HEARING OFFICER.

No person shall fail to comply with any portion of an order issued by the Hearing Officer within thirty days following service of the order or such period of time as the order provides, whichever is greater. Whoever violates this section is guilty of failure to comply with an order of the Hearing Officer, a misdemeanor of the first degree.

512.11 FAILURE TO PAY FINANCIAL SANCTIONS IMPOSED BY THE HEARING OFFICER.

If a civil penalty or costs or both are imposed by the Hearing Officer on the respondent, and any portion thereof remains unpaid thirty days following service of the order or following the expiration of the time period designated by the Hearing Officer, the City may institute civil enforcement proceedings against the respondent.

[512.12 – 512.97 Reserved for Future Use]

512.98 SEVERABILITY

Should any section, clause, or paragraph of this chapter be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part declared invalid.

ORDINANCE NO. 058-2025

MAKING UPDATES TO PART 11 – PLANNING AND ZONING CODE, ARTICLE 1114.04.

WHEREAS, the City of Whitehall updated the Planning and Zoning sections of the Whitehall Codified Code in 2023; and

WHEREAS, since that time minor updates to the Planning and Zoning Code have become warranted to offer flexibility with residential fences; NOW THEREFORE;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: Section 1114.04 FENCES AND WALL HEIGHTS shall read as follows:

(a) References to District Types. For the purposes of this section, references to a type of district shall include the following districts, in addition to any new or amended districts that are similarly categorized:

- (1) "Residential districts" may refer collectively or individually to Single and Two-Unit Residential District and Multi-Unit Residential District.
- (2) "Corridor districts" may refer collectively or individually to Broad Street District (BRD), Main Street District (MAIN), South Hamilton District (SH), Yearling Road District (YEAR), or Community Crossroads District (CCD).
- (3) "Employment districts" may refer collectively or individually to Military/Office District (MILO) or Industrial District (INDD).
- (4) "Special districts" may refer collectively or individually to Existing Planned Unit Developments (PUD) or Flood Plain District (FP).

TABLE 1114.04 FENCE AND WALL HEIGHTS

	TYPE OF DISTRICT			
HEIGHT STANDARD ¹	RESIDENTIAL DISTRICTS	CORRIDOR DISTRICTS	EMPLOYMENT DISTRICTS	SPECIAL DISTRICTS
Front Yard (Maximum)	4 feet ²	Not permitted	Not permitted	4 feet ²
Side Yard (Maximum)	4 feet 6 feet ⁴	8 feet	8 feet	4 feet
Rear Yard (Maximum) ²	6 feet ³	8 feet ³	8 feet ³	7 feet ³

1 These standards may be modified by other provisions within this section.

2 Such fences shall not be more than 50% opaque when viewed perpendicular to the length of the fence.

3 Where a rear yard abuts a front yard and/or side yard of an adjacent property, the maximum height of the rear yard fence shall not exceed the maximum permitted height of the front and/or side yard fence along shared property lines.

4 Such fences shall not be permitted beyond the point of either the front façade of the house of the project or the front façade of any adjacent property, whichever is farthest from the front property line.

SECTION 2: This Ordinance shall be in full force and effect from and after the earliest time provided for by law.

PASSED this ____ day of _____, 2025

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025

Mayor

ORDINANCE NO. 073-2025

AMENDING SECTION 1136, TITLED FLOOD DAMAGE REDUCTION, OF THE PLANNING AND ZONING CODE OF THE CITY OF WHITEHALL.

WHEREAS, ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens and;

WHEREAS, The City of Whitehall codified ordinances need to be amended to reflect the FEMA updated National Flood Damage Reduction Regulations, NOW, THEREFORE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WHITEHALL, OHIO:

SECTION 1: Section 1136, FLOOD DAMAGE REDUCTION, is hereby amended to replace the existing chapter as follows:

1136.01: GENERAL PROVISIONS

A. Statutory Authorization

ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Council of the City of Whitehall, State of Ohio, does ordain as follows:

B. Findings of Fact

The City of Whitehall has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, flood proofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

C. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
7. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
8. Minimize the impact of development on adjacent properties within and near flood prone areas;
9. Ensure that the flood storage and conveyance functions of the floodplain are maintained;
10. Minimize the impact of development on the natural, beneficial values of the floodplain;
11. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
12. Meet community participation requirements of the National Flood Insurance Program.

D. Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

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1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
2. Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
5. Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.

E. Lands to Which These Regulations Apply

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Whitehall as identified in Section 1136.01(F), including any additional areas of special flood hazard annexed by the City of Whitehall.

F. Basis for Establishing the Areas of Special Flood Hazard

For the purposes of these regulations, the following studies and/or maps are adopted:

1. Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for Franklin County, Ohio and Incorporated Areas, both effective June 16, 2011.
2. Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
3. Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio, which has been approved by the City of Whitehall as required by Section 1136.04(C) Subdivisions and Other New Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Whitehall City Hall, 360 S. Yearling Road, Whitehall, Ohio 43213.

G. Abrogation and Greater Restrictions

These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations are not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

H. Interpretation

In the interpretation and application of these regulations, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

I. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Whitehall, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

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J. Severability

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 1136.02: DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

A. Accessory Structure

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

B. Appeal

A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.

C. Base Flood

The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one hundred (100) year flood.

D. Base (100-Year) Flood Elevation (BFE)

The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the lowest adjacent natural grade elevation plus the depth number (from 1 to 3 feet).

E. Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

F. Development

Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

G. Enclosure Below the Lowest Floor

See "Lowest Floor."

H. Executive Order 11988 (Floodplain Management)

Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

I. Federal Emergency Management Agency (FEMA)

The agency with the overall responsibility for administering the National Flood Insurance Program.

J. Fill

A deposit of earth material placed by artificial means.

K. Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters, and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

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- L. Flood Hazard Boundary Map (FHBM)
Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.
- M. Flood Insurance Rate Map (FIRM)
An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.
- N. Flood Insurance Risk Zones
Zone designations on FHBM's and FIRM's that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
 - 1. Zone A:
Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are not determined.
 - a. Zones A1-30 and Zone AE:
Special flood hazard areas inundated by the 100-year flood in any given year; base flood elevations are determined.
 - b. Zone AO:
Special flood hazard areas inundated by the 100-year flood in any given year; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - c. Zone AH:
Special flood hazard areas inundated by the 100-year flood in any given year; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
 - d. Zone A99:
Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
 - 2. Zone B and Zone X (shaded):
Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.
 - 3. Zone C and Zone X (unshaded):
Areas determined to be outside the 500-year floodplain.
- O. Flood Insurance Study (FIS)
The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
- P. Floodproofing
Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- Q. Flood Protection Elevation
The Flood Protection Elevation, or FPE, is the base flood elevation plus [.5] feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.
- R. Floodway
A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering

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analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

S. Freeboard

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

T. Historic structure

Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
3. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
4. Individually listed on the inventory of historic places maintained by City of Whitehall's historic preservation program, which program is certified by the Ohio Historic Preservation Office.

U. Hydrologic and hydraulic engineering analysis

An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

V. Letter of Map Change (LOMC)

A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:

1. Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

2. Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

3. Conditional Letter of Map Revision (CLOMR)

A comment by FEMA regarding a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the special flood hazard area. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

W. Lowest floor

The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles,

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building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

X. Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 4781 of the Ohio Revised Code.

Y. Manufactured home park

As specified in the Ohio Adm. Code 4781-12-01(K), a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes.

Z. Mean sea level

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

AA. National Flood Insurance Program (NFIP)

The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

BB. New construction

Structures for which the "start of construction" commenced on or after the effective date of a floodplain regulation adopted by the City of Whitehall and includes any subsequent improvements to such structures.

For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM [July 18, 1985] and includes any subsequent improvements to such structures.

CC. Person

Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Rev. Code §111.15(A)(2) as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

DD. Recreational vehicle

A vehicle which is:

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

EE. Registered Professional Architect

A person registered to engage in the practice of architecture pursuant to Ohio Rev. Code §4703.01 and 4703.19.

FF. Registered Professional Engineer

A person registered as a professional engineer pursuant to Ohio Rev. Code Chapter 4733.

GG. Registered Professional Surveyor

A person registered as a professional surveyor pursuant to Ohio Rev. Code Chapter 4733.

HH. Special Flood Hazard Area

Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1 30, or A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

II. Start of construction

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

JJ. Structure

A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

KK. Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to the 'before damaged' condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

LL. Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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2. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

MM. Variance

A grant of relief from the standards of these regulations.

NN. Violation

The failure of a structure or other development to be fully compliant with these regulations.

SECTION 1136.03: ADMINISTRATION

A. Designation of the Floodplain Administrator

The Director of Public Service is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

B. Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

1. Evaluate applications for permits to develop in special flood hazard areas.
2. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
3. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
4. Inspect buildings and lands to determine whether any violations of these regulations have been committed.
5. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, floodproofing certificates, variances, and records of enforcement actions taken for violations of these regulations.
6. Enforce the provisions of these regulations.
7. Provide information, testimony, or other evidence as needed during variance hearings.
8. Coordinate map maintenance activities and FEMA follow-up.
9. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

C. Floodplain Development Permits

It shall be unlawful for any person to begin construction or other development activity including but not limited to filling, grading, construction, alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1.6, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

D. Application Required

An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

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1. Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
2. Elevation of the existing, natural ground where structures are proposed.
3. Elevation of the lowest floor, including basement, of all proposed structures.
4. Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
5. Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - a. Floodproofing certification for non-residential floodproofed structure as required in Section 4.5.
 - b. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1136.04 (E) are designed to automatically equalize hydrostatic flood forces.
 - c. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1136.04 (I)(3).
 - d. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1136.04 (I)(2).
 - e. A hydrologic and hydraulic engineering analysis showing the impact of any development on flood heights in an identified floodway as required by Section 1136.04 (I)(1).
 - f. Generation of base flood elevation(s) for subdivision and other new developments as required by Section 1136.04 (C).
6. All applications for a floodplain development permit shall be accompanied by a fee of fifty dollars (\$50).

E. Review and Approval of a Floodplain Development Permit Application

1. Review

- a. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1136.03(D) has been received by the Floodplain Administrator.
- b. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

2. Approval

Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If the Floodplain Administrator is satisfied that the development proposed in the floodplain development application conforms to the requirements of this ordinance, the Floodplain Administrator shall issue the permit. All floodplain development permits shall be conditional upon the commencement of work within 180 days. A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

F. Inspections

The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

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G. Post-Construction Certifications Required

The following as-built certifications are required after a floodplain development permit has been issued:

1. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered professional surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
2. For all development activities subject to the standards of Section 1136.03(K)(1), a Letter of Map Revision.
3. For new or substantially improved nonresidential structures that have been floodproofed in lieu of elevation, where allowed, the applicant shall supply a completed Floodproofing Certificate for Non-Residential Structures completed by a registered professional engineer or architect together with associated documentation.

H. Revoking a Floodplain Development Permit

A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1136.05 of these regulations.

I. Exemption from Filing a Development Permit

An application for a floodplain development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$2500.

J. State and Federal Development

1. Development that is funded, financed, undertaken, or preempted by state agencies shall comply with minimum NFIP criteria.
2. Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a 100-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with minimum NFIP criteria and any applicable local floodplain management resolution or ordinance as required by Ohio Revised Code Section 1521.13. This includes, but is not limited to:
 - a. Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Commerce and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 4781-12.
 - b. Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
 - c. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
 - d. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.
Each federal agency has a responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget request reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of EO 11988.

K. Map Maintenance Activities

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Whitehall flood maps, studies and other data identified in Section 1136.01(F) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

1. Requirement to Submit New Technical Data

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- a. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - iv. Subdivision or other new development proposals requiring the establishment of base flood elevations in accordance with Section 1136.04 (C).
- b. It is the responsibility of the applicant to have technical data, required in accordance with Section 1136.03(K)(1) prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- c. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - i. Proposed floodway encroachments that increase the base flood elevation; and
 - ii. Proposed development which increases the base flood elevation by more than one foot in riverine areas where FEMA has provided base flood elevations but no floodway.
- d. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1136.03 (K)(1)(a).

2. Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Whitehall, and may be submitted at any time.

3. Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Whitehall have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Whitehall's Flood Insurance Rate Map accurately represent the City of Whitehall boundaries, include within such notification a copy of a map of the City of Whitehall suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Whitehall has assumed or relinquished floodplain management regulatory authority.

L. Data Use and Flood Map Interpretation

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

1. In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
2. Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger

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floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.

3. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 5.0, Appeals and Variances.
4. Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

M. Use of Preliminary Flood Insurance Rate Map and/or Flood Insurance Study Data

1. Zone A:
 - a. Within Zone A areas designated on an effective FIRM, data from the preliminary FIRM and/or FIS shall be reasonably utilized as best available data.
 - b. When all appeals have been resolved and a notice of final flood elevation determination has been provided in a Letter of Final Determination (LFD), BFE and floodway data from the preliminary FIRM and/or FIS shall be used for regulating development.
2. Zones AE, A1-30, AH, and AO:
 - a. BFE and floodway data from a preliminary FIS or FIRM restudy are not required to be used in lieu of BFE and floodway data contained in an existing effective FIS and FIRM. However,
 - i. Where BFEs increase in a restudied area, communities have the responsibility to ensure that new or substantially improved structures are protected. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data in instances where BFEs increase and floodways are revised to ensure that the health, safety, and property of their citizens are protected.
 - ii. Where BFEs decrease, preliminary FIS or FIRM data should not be used to regulate floodplain development until the LFD has been issued or until all appeals have been resolved.
 - iii. If a preliminary FIRM or FIS has designated floodways where none had previously existed, communities should reasonably utilize this data in lieu of applying the encroachment performance standard of Section 1136.04(I) since the data in the draft or preliminary FIS represents the best data available.
3. Zones B, C, and X:
 - a. Use of BFE and floodway data from a preliminary FIRM or FIS are not required for areas designated as Zone B, C, or X on the effective FIRM which are being revised to Zone AE, A1-30, AH, or AO. Communities are encouraged to reasonably utilize preliminary FIS or FIRM data to ensure that the health, safety, and property of their citizens are protected.

N. Substantial Damage Determinations

Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:

1. Determine whether damaged structures are located in special flood hazard areas;
2. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
3. Require owners of substantially damaged structures to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair

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of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

SECTION 1136.04: USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1136.01(F), or 1136.03(K)(1)

A. Use Regulations

1. Permitted Uses

All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Whitehall are allowed provided they meet the provisions of these regulations.

2. Prohibited Uses

- a. Storage or processing of materials that are hazardous, flammable, or explosive in the identified special flood hazard area.
- b. Storage of material or equipment that, in time of flooding, could become buoyant and pose an obstruction to flow in identified floodway area.

B. Water and Wastewater Systems

The following standards apply to all water supply, sanitary sewerage and waste disposal systems in the absence of any more restrictive standard provided under the Ohio Revised Code or applicable state rules:

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
2. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
3. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

C. Subdivisions and Other New Developments

1. All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
2. All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
3. All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood damage; and
4. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
5. The applicant shall meet the requirement to submit technical data to FEMA in Section 1136.03(J)(1) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1136.04(C)(4)

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D. Residential Structures

The requirements of Section 1136.04(D) apply to new construction of residential structures and to substantial improvements of residential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1136.03(L).

1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring 1136.04(D)(1) and construction materials resistant to flood damage 1136.04(D)(2) are satisfied.
2. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
3. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood protection elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest natural adjacent grade.
5. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings to allow the automatic equalization of hydrostatic pressure may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - a. Be used only for the parking of vehicles, building access, or storage; and
 - b. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - c. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - d. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors.
 - e. Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 1136.04(D).

E. Nonresidential Structures

The requirements of Section 1136.04(E) apply to new construction and to substantial improvements of nonresidential structures in zones A, A1-30, AE, AO, and AH, when designated on the community's effective FIRM, and when designated on a preliminary or final FIRM issued by FEMA under the circumstances provided in Section 1136.03(L).

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1136.04(D)(1)-(3) and (5)-(7).
2. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

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- a. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - c. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 1136.04(E)(2)(a) and (b).
3. Where flood protection elevation data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

F. Accessory Structures

Structures that are 600 square feet or less which are used for parking and storage only are exempt from elevation or dry floodproofing standards within zones A, A1-30, AE, AO, and AH designated on the community's FIRM. Such structures must meet the following standards:

1. They shall not be used for human habitation;
2. They shall be constructed of flood-resistant materials;
3. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
4. They shall be firmly anchored to prevent flotation;
5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
6. They shall meet the opening requirements of Section 1136.04(D)(5)(c);

G. Recreational Vehicles

Recreational vehicles on sites within zones A, A1-A30, AE, AO, or AH must meet at least one of the following standards:

1. They shall not be located on sites in special flood hazard areas for more than 180 days, or
2. They must be fully licensed and ready for highway use, or
3. They must be placed on the site pursuant to a floodplain development permit issued under Sections 1136.03(C) and 1136.03(D), and meet all standards of Section 1136.04(D).

H. Gas or Liquid Storage Tanks

Within zone A, A1-A30, AE, AO, or AH, new or substantially improved above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

I. Assurance of Flood Carrying Capacity

Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

1. Development in Floodways
 - a. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
 - b. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - i. Meet the requirements to submit technical data in Section 1136.03(K)(1);
 - ii. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - iii. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;

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- iv. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
- v. Concurrence of the Mayor of the City of Whitehall and the Chief Executive Officer of any other communities impacted by the proposed actions.

2. Development in Riverine Areas with Base Flood Elevations but No Floodways

- a. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
- b. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - i. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - ii. Section 1136.04(I)(1)(b)(i)-(v).

3. Alterations of a Watercourse

For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

- a. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
- b. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
- c. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Whitehall specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
- d. The applicant shall meet the requirements to submit technical data in Section 1136.03(J)(1)(a)(i)-(iv) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

SECTION 1136.05: APPEALS AND VARIANCES

A. Appeals Board Established

- 1. The Board of Zoning and Building Appeals as established by the City Charter shall hear and decide appeals and requests for variances from the requirements of this chapter
- 2. Records of the Appeals Board shall be kept and filed in 360 South Yearling Road, (Service Department) Whitehall Ohio, 43213.

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B. Powers and Duties

1. The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
2. Authorize variances in accordance with Section 1136.05(D) of these regulations.

C. Appeals

Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within [20] days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

D. Variances

Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

1. Application for a Variance

- a. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
- b. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
- c. All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the City of Whitehall.

2. Notice for Public Hearing

The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

3. Public Hearing

At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:

- a. The danger that materials may be swept onto other lands to the injury of others.
- b. The danger to life and property due to flooding or erosion damage.
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- d. The importance of the services provided by the proposed facility to the community.

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- e. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
 - f. The necessity to the facility of a waterfront location, where applicable.
 - g. The compatibility of the proposed use with existing and anticipated development.
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
4. Variances shall only be issued upon:
- a. A showing of good and sufficient cause.
 - b. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - c. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 - d. A determination that the structure or other development is protected by methods to minimize flood damages.
 - e. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

5. Other Conditions for Variances
- a. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - b. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1136.05(D)(3)(a)-(k) have been fully considered. As the lot size increases beyond one half acre, the technical justification required for issuing the variance increases.
 - c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

E. Procedure at Hearings

- 1. All testimony shall be given under oath.
- 2. A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- 3. The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- 4. The administrator may present evidence or testimony in opposition to the appeal or variance.
- 5. All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- 6. Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- 7. The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- 8. The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

F. Appeal to the Court

Those aggrieved by the decision of the Appeals Board may appeal such decision to the Franklin County Court of Common Pleas, pursuant to Ohio Rev. Code Chapter 2506.

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SECTION 1136.06: ENFORCEMENT

A. Compliance Required

1. No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1136.03(I).
2. Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1136.06(C).
3. Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1136.06(C).

B. Notice of Violation

Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, they shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

1. Be put in writing on an appropriate form;
2. Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
3. Specify a reasonable time for performance;
4. Advise the owner, operator, or occupant of the right to appeal;
5. Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

C. Violations and Penalties

Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Whitehall. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Whitehall from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Whitehall shall prosecute any violation of these regulations in accordance with the penalties stated herein.

SECTION 2: That this Ordinance shall go into full force and effect at the earliest period allowed by law.

PASSED this ____ day of _____, 2025.

ATTEST:

Clerk of Council

President of Council

APPROVED this ____ day of _____, 2025.

Mayor

ORDINANCE NO. 073-2025

Requested and Prepared by: Casey Rowlands, Director of Public Service
Approved as to form: Bradley S. Nicodemus, City Attorney bsn 7/22/2025