

ORDINANCE NO. 278 (22-23)

An Ordinance to amend Title Five – Land Development
Chapter 1152 of the Codified Ordinances of the City of
Marietta, Ohio, pertaining to the Definitions.

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

Section 1: That Chapter 1152 of the Codified Ordinances of the City of Marietta, Ohio, shall be and is
hereby amended to read as follows:

1152.01 Interpretation of words and terms.

1152.02 Definitions.

1152.01 INTERPRETATION OF WORDS AND TERMS.

For the purpose of this Title certain rules of word usage apply to the text as follows:

- (a) Words used in the present tense include the future tense, and words used in the singular include the plural and the plural the singular, unless the context clearly indicates the contrary.
- (b) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (c) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (d) The word "structure" includes the word "building."
- (e) Any word or term not interpreted or defined by this article shall be used with a meaning of common or standard usage, so as to give this Title its most reasonable application.
(Ord. 246(98-99). Passed 12-31-99.)

1152.02 DEFINITIONS.

As used in this Title the following terms shall have the following meanings:

- (a) "Accelerated Water Erosion" means the wearing away of the land surface by water, occurring at a much more rapid rate than geologic or normal erosion, primarily as a result of the influence of the activities of humans.
- (b) "Bench" means a shelf-like area with steep slopes above and below.
- (c) "Bond" means a legal instrument that specifies that funds are being held in escrow in accordance with standard bonding conditions by a State approved bonding institution or by the City of Marietta as required from developers to assure compliance with these provisions.
- (d) "Channel" means a natural or artificial watercourse with a definite bed and banks that confine and conduct the normal continuous or intermittent flow of water.
- (e) "Channel Erosion" means the erosion process in which the volume and velocity of a concentrated flow wears away the bed and banks of a well-defined channel.
- (f) "Common Plan of Development" means a site where multiple separate and distinct construction activities may be taking place. Examples include:

- 1) phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g., a Subdivision development where lots are sold to separate builders);
 - 2) a development plan for a rural infrastructure project that may be phased over multiple years and is under a consistent plan for long-term development (e.g., a project that is designed to be built over several years, however funding is available for those phases on a year-to-year basis);
 - 3) projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility. If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining development permitting requirements.
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- (g) "Concentrated Storm Runoff" means surface runoff that converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewer and that exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.
 - (h) "Construction and Demolition Debris" means those materials that result from the alteration, construction, destruction, rehabilitation, or repair of any man-made structure, including but not limited to, houses, buildings, industrial or commercial facilities, or roadways. Concrete, asphalt, brick, and stone are excluded from this definition.
 - (i) "Critical storm" means a theoretical storm event, calculated on the basis of the percentage increase in runoff volume expected to be caused by development of an area and used to determine the maximum allowable rate of stormwater discharge from the development area. The calculation procedure is detailed in Section 1154.04(f).
 - (j) "Denuded Area" means a portion of land surface on which the vegetation or other soil stabilization features have been removed, destroyed, or covered and which may erode.
 - (k) "Detention structure" means runoff enters an area of detention faster than it leaves. It occurs in depressions, the natural landscape, or constructed basins. While detention can be designed into ponds with or without a permanent pool, dry ponds often are referred to as detention ponds.
 - (l) "Developer" means any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to effect the development of land for commercial, industrial, residential, or other nonfarm purposes, including the subdivision thereof, whether for himself or for another. Any Developer who receives a Notice of Violation for any project in the city is excluded from participating in future City contracts until the violation has been corrected.

- (m) "Development" means any subdivision of land; any construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any excavation, filling, or land disturbance; and any extension or expansion of the use of land commenced on or after the effective date of this Title.
- (n) "Development area" means any contiguous area operated as one development unit and being developed for any non-farm purpose in a manner that will involve earth disturbing activity.
- (o) "Ditch" means an open channel, either dug or natural, for the purpose of drainage or irrigation with intermittent flow.
- (p) "Dumping" means grading, pushing, piling, throwing, unloading, or placing of soil or debris.
- (q) "Earth disturbing activity" means any stripping of vegetation, grading, excavating, filling, or other alteration of the earth's surface in which natural or man-made ground cover is destroyed and which may result in or contribute to slope instability, erosion, sediment pollution, and/or accelerated runoff.
- (r) "Earth material" means soil, sediment, rock, sand, gravel, and only that organic material or residue that is naturally associated with or attached to the soil.
(Ord. 246 (98-99). Passed 12-31-99.)
- (s) "Engineer" means a professional civil engineer authorized to practice engineering in the State of Ohio.
- (t) "Erosion" means the process by which the land surface is worn away by the action of water, wind, ice, or gravity.
- (u) "Erosion Control Practices" means temporary and permanent conservation measures used to minimize soil loss.
- (v) "Farm" means land or water devoted to agriculture. Farm or Agricultural Activities:
 - (1) Farming;
 - (2) Ranching;
 - (3) The production or cultivation of agricultural or horticultural commodities including, without limitation, field crops, tobacco, fruits, vegetables, mushrooms, timber, nursery stock, ornamental trees, sod, or flowers;
 - (4) Animal or poultry husbandry and the production of poultry and poultry products, livestock, equine or furbearing animals, and wildlife, including raising, breeding, shearing, grazing or other feeding;
 - (5) Dairy production;
 - (6) Beekeeping and related apiarian activities and the production of honey, beeswax, honeycomb, and other related products;
 - (7) Viticulture, winemaking, and related activities;
 - (8) On-site storing, handling, and processing incidental to the production of the foregoing agricultural or horticultural products and commodities; however, control of the runoff or leaching of nutrients from wastes must be practiced in accordance with all Federal, state, and local requirements

- (w) "Fill" means unconsolidated earth material that is placed or removed to a new location on the land surface by human beings.
- (x) "Frequency year storm" means a rainfall event of a specified magnitude with a specified average recurrence interval that is calculated with Natural Resources Conservation Service Type II twenty-four hour curves or depth duration frequency curves.
- (y) "Geologically Sensitive Area" means any area that, because of geologic, hydrologic, and/or topographic conditions, is likely to be subject to the downward movement of soil and/or rock masses referred to as slope failure or landslide, and that thus has the potential of having significant negative effect on public health, safety, or welfare.
- (z) "Grade." See Slope.
- (aa) "Grading" means earth disturbing activity such as excavation, stripping, cutting, filling, stockpiling, or any combination thereof.
- (bb) "Grubbing" means removing, clearing or scaling material such as roots, stumps or sod.
- (cc) "Highly erodible soil" means a portion of the land surface that is very susceptible to erosion forces and is characterized by a high soil erodibility factor or by steep or long slopes.
- (dd) "Interceptor ditch" means a channel excavated at the top of cut or fill slopes, at the foot of slopes, or at other critical places to intercept surface flow; a catch drain; also called an interceptor channel.
- (ee) "Land development plan" means a written and/or drawn plan or strategy to minimize the potentially negative effects of slope instability, erosion, sediment pollution, and/or accelerated storm water runoff that may result from earth disturbing activities on a development area.
- (ff) "Landslip" means the mass movement of soil and rock material downhill under the influence of gravity.

Landslip/Soil Slippage potential categories (see Appendix A for identification):

- (1) None to slight - soil properties indicate that the development of this site is not generally limited by the potential for landslips, and any limitation of this nature should be easily overcome.
- (2) Medium - Soil properties indicate that development of this site is generally limited by the potential for landslips/soil slippage, and that special planning, design, and/or maintenance are needed to overcome or minimize that limitation. Such condition requires prior approval of any land development plan.
- (3) High - Soil properties indicate that development of this site is limited by the potential for landslips/soil slippage, and that special planning and design, are required to overcome or minimize that potential. Increases in construction costs and/or increased maintenance may be expected. Such conditions require approval of a Land Development Plan.

(Note that, because of the scale of mapping, there may exist significant limitations on the accuracy of these classifications when applied to individual parcels; professional evaluation of individual sites is required to resolve questions.)

- (gg) "Larger Common Plan of Development" means a contiguous area where multiple separate and distinct construction activities are occurring under one plan.
- (hh) "Outfall" mean an area where water flows from a structure such as conduit, storm sewer, or improved channel or drain, as well as the area immediately beyond the structure that is impacted by the velocity of flow from the structure.
- (ii) "Owner" means any person seized of a freehold estate in land, except that persons holding easements are not included within such meaning.
- (jj) "Pavement" means a continuous land surface covering of asphalt, concrete, gravel, or brick.
- (kk) "Person" means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, township, county, or state agency, the federal government, or any combination thereof.
- (ll) "Qualified professional person" means an individual who is, by education and/or licensing, a practicing member of a recognized earth and soil sciences profession. This category includes, but is not limited to, civil engineers, engineering geologists, hydrogeologists, and geotechnical engineers. Soil retention structures and storm water control facilities must be designed by a professional civil engineer. Storm water designers must meet a City prequalification process, established by the City Engineer. Individuals or firms who are involved with projects that violate the requirements of Land Development Ordinances may be excluded from performing design and or inspection of projects within the City.
- (mm) "Retaining Wall" Any manmade structure that is designed and/or construction to retain (hold back) any material (usually earth) and prevents it from slipping/sliding or eroding away. Any retaining wall over six-feet in height or any wall supporting a structure, roadway, or utility shall be designed to a factor of safety of a minimum of 1.5 as determined by a two-dimension analysis. All retaining walls shall be designed by a professional civil engineer whose area or practice qualifies them to perform retaining wall design. Retaining walls shall be maintained by the owners of structures, roadways, utilities, etc. that the wall supports/retains/protects.
- (nn) "Retention structure" means a permanent water control structure for the temporary storage of runoff above the normal level of a permanent pool. Detention may be underground structures designed for protection of ground water, drinking water, and for ease of maintenance. Designs must meet industry standards and be approved by the City Engineer.
- (oo) "Runoff" means water that travels over the ground surface to a channel.
- (pp) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by wind, water, gravity, or ice, and has come to rest on the earth's surface.
- (qq) "Sediment basin" means a facility created when a barrier is built across an area of water flow to retard the flow and thereby to cause sediment to settle out of suspension and be retained.

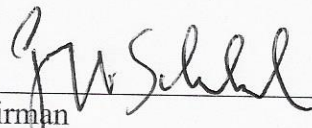
- (rr) "Sediment control" means the limiting of sediment transport by preventing erosion, filtering sediment from water, or detaining sediment laden water allowing sediment to settle out.
- (ss) "Sediment filter" means a sediment control device such as a silt fence, a straw bale barrier, or a filter strip, that is usually capable of controlling only small flow rates. Vortex/Hydrodynamic separators shall only be considered as a last resort for treatment and may only be considered when approved by the City Engineer.
- (tt) "Sediment pollution" means failure to use management or conservation practice to abate wind or water erosion of the soil or to abate the degradation of the waters of the State by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for commercial, industrial, residential, or other nonagricultural purposes.
- (uu) "Settling facility" means a runoff detention structure, such as a sediment basin or a sediment trap, that detains sediment-laden runoff in order to allow sediment to settle out.
- (vv) "Sheet flow" means overland water runoff in a uniform layer.
- (ww) "Slope" means the inclination of the land surface from the horizontal. It is the change in elevation of the land surface over a given horizontal distance, and, for the purposes of this Title, may be stated as percent of degrees of slope. (See Figure 3).
- (xx) "Slope, cut" means a portion of the land surface from which earth materials are excavated, leaving a surface at an angle to the horizontal. (See Figure 2.)
- (yy) "Slope, fill" means a portion of the land surface upon which earth materials are deposited for the purpose of building up the level of an area of ground, the resultant surface of which lies at an angle to the horizontal. (See Figure 2.)
- (zz) "Sloughing" means a landslip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.
- (aaa) "Soil" means unconsolidated erodible earth material consisting of minerals and/or organic matter.
- (bbb) "Soil loss" means soil moved from a site by the forces of erosion and redeposited at another site on land or in a body of water.
- (ccc) "Soil stabilization" means vegetative or structural soil cover controlling erosion that includes permanent and temporary seed, mulch, sod, pavement, etc.
- (ddd) "Stockpile" means soil deposited for use for a future purpose.
- (eee) "Storm frequency" means the average period of time within which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (fff) "Stormwater control structure" means a device used to control accelerated stormwater runoff from development areas.
- (ggg) "Stormwater conveyance system" means all storm sewers, channels, streams, ponds, lakes, and the like used for conveying concentrated stormwater runoff or storing stormwater runoff.
- (hhh) "Stormwater management" means the control of runoff water in such a way that it is safely conveyed or temporarily stored and released at an allowable rate to minimize erosion and flooding.

- (iii) "Stream" means a system including permanent or seasonally flowing water, a defined channel, flood plain, and riparian ecosystem. Streams have no defined size range, but generally are considered smaller than rivers.
- (jjj) Subdivision. (Ohio Revised Code Section 711.001)
 - (1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding general tax list and duplicate of real and public utility property, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the following are exempt:
 - (a) A division or partition of land into parcels of more than five acres not involving any new streets or easements of access;
 - (b) The sale or exchange of parcels between adjoining lot owners, where that sale or exchange does not create additional building sites;
 - (c) If the planning authority adopts a rule in accordance with section 711.133 of the Revised Code that exempts from division (B)(1) of section Revised Code Section 711.011 any parcel of land that is four acres or more, parcels in the size range delineated in that rule.
 - (2) The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any public or private street or streets, except private streets serving industrial structures, or involving the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders or as easements for the extension and maintenance of public or private sewer, water, storm drainage, or other similar facilities.
- (kkk) "Terrace, drainage" means an embankment, or ridge, constructed across a sloping land surface on the contour or at a slight angle to the contour to allow water to flow slowly toward a prepared outlet.
- (lll) "Unstable soil" means a portion of the land surface or area that is prone to sloughing or landslips.
- (mmm) "Watercourse" means a natural or man-made channel through which water flows either intermittently or continually.
- (nnn) "Water resource" means all streams, lakes, ponds, wetlands, watercourses, waterways, drainage systems, and all other bodies or accumulations of surface water, natural or artificial, that are situated wholly or partly within, or border upon, this State, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface water.
- (ooo) "Watershed" means an elevated boundary area separating tributaries draining into different water courses.

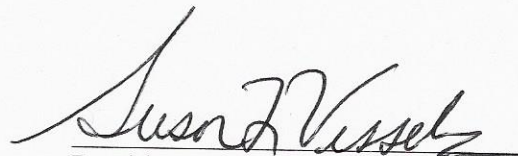
Section 2: That the previous Chapter 1152 of the Codified Ordinances of the City of Marietta, Ohio shall be and is hereby repealed in its entirety.

Section 3: That this Ordinance shall take effect and be in full force from and after the earliest time allowed by law.

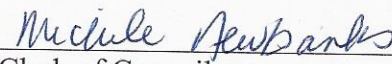
Introduced by the Planning, Zoning & Annexation Committee, Geoff Schenkel, Chairman.


Chairman

Passed this 15th day of June, 2023.


President of Council

ATTEST:


Clerk of Council

Approved this 15th day of June, 2023.


Mayor

First Reading June 15, 2023

Second Reading Suspended

Third Reading Suspended