

CHAPTER 3

DEFINITIONS

This Chapter assembles in one location all of the definitions of “general applicability” that are used in the *Legislative Guidebook*. Specific definitions that are pertinent only to particular model statutes are located in their applicable Chapters. The reader is therefore urged to consult the individual Chapters before relying on any definitions contained in this Chapter.

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Chapter Outline

3-101 Definitions

Cross-References for Sections in Chapter 3

Section No.	Cross-Reference to Section No.
3-101	4-204, 6-101 <i>et seq.</i> , 6-201, 6-601, 6-602, 7-103

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THE NEED FOR DEFINITIONS

Definitions have a number of functions. First, they establish with precision the meaning of a word or phrase that might be subject to diverse interpretations or that might be ambiguous or unclear; in other words, definitions promote internal consistency.¹ This is particularly true for planning legislation that contains many terms, such as “affordable housing,” and “development,” about which there may be several connotations. Second, they simplify the text and eliminate the need to explain the term repeatedly. Third, they translate technical terms into meaningful and usable terminology.² An example of this might be a definition involving building height. Using the description in the definition of how the height of a building is to be calculated – the points from which measurement is taken – the reader can determine how high the building may be and whether it meets a standard contained in the legislation. Definitions usually appear at the beginning of the model legislation in order to give the reader an “early warning” of terms that are obscure or technical or that may depart from the dictionary definition. **Any words and terms not defined in the *Legislative Guidebook* will have the meaning indicated by common dictionary definition.**

The definitions below are specific to words and phrases contained in the *Guidebook*. As a consequence, the user is **strongly cautioned** against modifying them without a full understanding of the particular context in the *Guidebook* in which they were meant to be applied.

3-101 Definitions

As used in these Acts, the following words and terms shall have the meanings specified herein:

“Affordable Housing” means housing that has a sales price or rental amount that is within the means of a household that may occupy middle-, moderate-, or low-income housing. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than [28] percent of such gross annual household income for a household of the size which may occupy the unit in question. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than [30] percent of such gross annual household income for a household of the size which may occupy the unit in question.³

¹Lawrence E. Filson, *The Legislative Drafter’s Desk Reference* (Washington, D.C.: Congressional Quarterly, 1992), 22-23.

²Harvey S. Moskowitz and Carl G. Lindbloom, *The New Illustrated Book of Development Definitions* (New Brunswick, N.J.: Center for Urban Policy Research, 1993), xvii-xviii.

³As used in the *Legislative Guidebook*, “affordable housing” also means housing that has some type of subsidy associated with it (see definition of “subsidy” or “subsidized” later in this Chapter). See also “affordable housing development” below. It should be acknowledged that much privately constructed housing, constructed without any

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“Affordable Housing Developer” means a nonprofit entity, limited equity cooperative, public agency, or private individual firm, corporation, or other entity seeking to build an affordable housing development.

“Affordable Housing Development” means any housing that is subsidized by the federal, state, or local government, or any housing in which at least [20] percent of the dwelling units are subject to covenants or restrictions which require that such dwelling units be sold or rented at prices which preserve them as affordable housing for a period of at least [15] years.⁴

“Agriculture” or **“Agricultural Use”** means the employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops, or feeding (including grazing), breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, by any other horticultural, floricultural or viticultural use, by animal husbandry, or by any combination thereof. It also includes the current employment of land for the primary purpose of obtaining a profit by stabling or training equines including, but not limited to, providing riding lessons, training clinics and schooling shows.

“Agricultural Land” means land on which the land use of agriculture occurs.

“Areawide” or **“Regional”** means the geographic territory that encompasses the whole area of influence of a program or impact of a problem to be addressed, usually transcending the boundaries of any single unit of local government.

“Buildable Land” mean land within urban and urbanizable areas that is suitable, available, and necessary for residential, commercial, and industrial uses, and includes both vacant land and developed land that, in the opinion of the local planning agency, is likely to be redeveloped.

“Capital Improvement” means any building or infrastructure project that will be owned by a governmental unit and purchased or built with direct appropriations from the governmental unit, or with bonds backed by its full faith and credit, or, in whole or in part, with federal or other public funds, or in any combination thereof. A project may include construction, installation, project management or supervision, project planning, engineering, or design, and the purchase of land or interests in land.

“Comprehensive Plan, Local” means the adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical design for the public and private development of land and water.

subsidy, may also be affordable to middle-, moderate-, and low-income housing.

⁴This definition is used in connection with Section 4-208.1 *et seq.* (Alternative 2 – Application for Affordable Housing Development; Affordable Housing Appeals).

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“Comprehensive Plan, Regional” means that plan prepared pursuant to Section [6-201] and adopted by a [regional planning agency].

“Context-Sensitive Highway Design” means the application to roadways of design criteria that take into account, in addition to road safety, durability, and economy of maintenance:

- (a) the built and natural environment surrounding the roadway, including environmental, scenic, and historic attributes of the area; and
- (b) interaction with other modes of transportation, including but not limited to walking, bicycling, and public transportation.

“Density” or **“Net Density”** means the result of:

- (a) dividing the total number of dwelling units existing on a housing site by the net area in acres; or
- (b) multiplying the net area in acres times 43,560 square feet per acre and then dividing the product by the required minimum number of square feet per dwelling unit.

“Density” or “Net Density” is expressed as dwelling units per acre or per net acre.

“Development” means any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity that alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodlands, wetland, endangered species habitat, aquifer or other resource area, including coastal construction or other activity.

“Development of Regional Impact” or **“DRI”** means any development that, because of its character, magnitude, or location, would have substantial effect upon the health, safety, welfare, or environment or more than one unit of local government.

“Development Permit” means any written approval or decision by a local government under its land development regulations that gives authorization to undertake some category of development, including, but not limited to, a building permit, zoning permit, final subdivision plat, minor subdivision, resubdivision, conditional use, variance, appeal decision, planned unit development, site plan, [and] certificate of appropriateness[.] [and zoning map amendment(s) by the legislative body]. “Development permit” does not mean the adoption or amendment of a local comprehensive plan or any subplan, the adoption or amendment of the text of land development regulations, or a liquor license or other type of business license.

“Forest” means a tract or tracts of contiguous trees or tree stands.

“Forest Land” means land on which the land use of forestry occurs.

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“Forestry” or “Forest Operations” means the growing or harvesting of forest tree species trees used for commercial or related purposes.

“Goal” means a desired state of affairs to which planned effort is directed.

“Guideline” means an agency statement or a declaration of policy that the agency intends to follow, which does not have the force or effect of law and that binds the agency but does not bind any other person.

“Housing Region” means that geographic area that exhibits significant social, economic, and income similarities, and which constitutes to the greatest extent practicable, the applicable primary metropolitan statistical area as last defined and delineated by the United States Census Bureau.

“Household” means the person or persons occupying a dwelling unit.

“Inclusionary Development” means a development containing [at least 20 percent] low- and moderate-income dwelling units. This term includes, but is not necessarily limited to, the creation of new low- and moderate-income dwelling units through new construction, the conversion of a nonresidential structure to a residential structure, and/or the gut rehabilitation of a vacant residential structure.⁵

“Land Development Regulations” mean any zoning, subdivision, impact fee, site plan, corridor map, floodplain or stormwater regulations, or other governmental controls that affect the use, density, or intensity of land.

“Legislative Body” means the governing body of a local government with the power to adopt ordinances, regulations, and other documents that have the force of law.

“Level of Service” means an indicator of the extent or degree of service provided by, or proposed to be provided by, a public facility based on and related to the operational characteristics of the facility. “Level of service” shall indicate the capacity per unit of demand for each public facility.

“Local Government” or “Unit of Local Government” means any county, municipality, village, town, township, borough, city, or other general purpose political subdivision.

“Local Planning Agency” means an agency designated or established as such by the legislative body, which may be constituted as a local planning commission, a community development department, a planning department, or some other instrumentality as having the powers of Section [7-103] of this act..

“Local Planning Commission” means a board of the local government consisting of such [elected and appointed *or* appointed] members whose functions include advisory or nontechnical aspects of planning and

⁵This definition is used in connection with Section 4-208.1 *et seq.* (Alternative 1 – A Model Balanced and Affordable Housing Act).

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may also include such other powers and duties as may be assigned to it by the legislative body, pursuant to this act.

“Low-Income Housing” means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that does not exceed 50 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

“Middle-Income Housing” means housing that is affordable for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 80 percent but does not exceed [*specify a number within a range of 95 to 120*] percent of the median gross household income for households of the same size within the housing region in which the housing is located.

- ◆ While the definitions of low-income and moderate-income housing are specific legal terms based on federal legislation and regulations, this term is intended to signify in a more general manner housing that is affordable to the great mass of working Americans. Therefore, the percentage may be amended by adopting legislatures to fit the state’s circumstances.

“Moderate-Income Housing” means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income that is greater than 50 percent but does not exceed 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

“Net Area” means the total area of a site for residential or nonresidential development, excluding street rights of way and other publicly dedicated improvements such as parks, open space, and stormwater detention and retention facilities. “Net area” is expressed in either acres or square feet.

“New Fully Contained Community” means a development proposed for location outside of existing designated urban growth areas and that will be characterized by urban growth.

“Non-profit Conservation Organization” means an entity that holds, in fee simple or in easement, land for conservation purposes.

“Plan” means a document, adopted by an agency, that contains, in text, maps, and/or graphics, a method of proceeding, based on analysis and the application of foresight, to guide, direct, or constrain subsequent actions, in order to achieve goals. A plan may contain goals, policies, guidelines, and standards.

“Policy” means a general rule for action focused on a specific issue, derived from more general goals.

“Regional Planning Agency” means an organization engaged in areawide comprehensive and functional planning organized under Section [6-101, *et seq.*].

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“**Scenic**” means of or pertaining to natural features of the landscape that are visually significant or unique.

“**Scenic Corridor**” or “**Scenic Viewshed**” means an area visible from a highway, waterway, railway or major hiking, biking, or equestrian trail that provides vistas over water, across expanses of land, such as farmlands, woodlands, or coastal wetlands, or from mountaintops or ridges.

“**Scenic Highway**” includes scenic byways pursuant to 23 U.S.C. §162 as amended.

“**Special District**” means a local or areawide unit of special government, except school districts, created pursuant to general or special law for the purpose of performing specialized functions within an area’s boundaries.

“**Standard**” means a criterion that defines the meaning of a policy by providing a way to measure its attainment.

“**State Agency**” means any department, commission, board, or other administrative unit of state government.

“**State Capital Budget**” means the [annual *or* biennial] budget for capital improvements proposed by the governor and adopted by the state legislature.

“**State Capital Improvement Program**” means the [5]-year schedule of capital improvements for the state, the first [year *or* 2 years] of which is the capital budget. The capital improvement program is a proposed plan of expenditures and, except for the capital improvements included in the capital budget, shall not constitute an obligation or promise by the state to undertake projects or appropriate funds for any project in years [2 to 5 *or* 3 to 5] of the schedule.

“**State Planning Agency**” means the [*insert name of state planning agency*].

“**Subsidy**” or “**Subsidized**” means or refers to a federal, state, or local grant or aid that is extended to the construction or rehabilitation of housing for which a public interest in ensuring that it is affordable is imputed. A subsidy may include, but shall not be limited to: a payment in money; a donation of land or infrastructure; financing assistance or guarantees; a development or impact fee exemption; tax credits; full or partial property tax exemption; or a density bonus or other regulatory incentive to a market rate housing development in order to provide low- and moderate-income housing.. A subsidy shall not include federal home mortgage interest deductions.

“**Substate District**” means the geographic area within each set of boundaries delineated by the governor under Section [6-601].

“**Substate District Organization**” means a [regional planning agency] designated by the governor pursuant to Section [6-602] to perform areawide comprehensive and functional planning and other multijurisdictional responsibilities authorized by statute, agreement, interstate compact, or delegation by the governor.

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“Telecommunications” means any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images, sounds, or intelligence of any nature, by wire, radio, television, optical, or other means.

“Telecommunications Facility” means any facility that transmits and/or receives signals by electromagnetic or optical means, including antennas, microwave dishes, horns, or similar types of equipment, towers or similar structures supporting such equipment, and equipment buildings.

“Unnecessary Cost Generating Requirements” mean those development standards that may be eliminated or reduced that are not essential to protect the public health, safety, or welfare or that are not critical to the protection or preservation of the environment, and that may otherwise make a project economically infeasible. An unnecessary cost generating requirement may include, but shall not be limited to, excessive standards or requirements for: minimum lot size, building size, building setbacks, spacing between buildings, impervious surfaces, open space, landscaping, buffering, reforestation, road width, pavements, parking, sidewalks, paved paths, culverts and stormwater drainage, and oversized water and sewer lines to accommodate future development, without reimbursement.

“Urban Growth” means development that makes intensive use of land for the location of buildings, other structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, fiber, or other agricultural products, or the extraction of mineral resources and that, when allowed to spread over wide areas, typically requires urban services.

“Urban Growth Area” means an area delineated in an adopted [regional *or* county] comprehensive plan [in accordance with the goals, policies, and guidelines in the state land development plan, prepared pursuant to Section [4-204]] within which urban development is encouraged by delineation of the area, compatible future land-use designations, and implementing actions in a local comprehensive plan, and outside of which urban development is discouraged. An urban growth area shall allow existing or proposed land uses at minimum densities and intensities sufficient to permit urban growth that is projected for the [region *or* county] for the succeeding [20]-year period and existing or proposed urban services to adequately support that urban growth.

“Urban Growth Boundary” means a perimeter drawn around an urban growth area.

“Urban Services” mean those activities, facilities, and utilities that are provided to urban-level densities and intensities to meet public demand or need and that, together, are not normally associated with nonurban areas. Urban services may include, but are not limited to: the provision of sanitary sewers and the collection and treatment of sewage; the provision of water lines and the pumping and treatment of water; fire protection; parks, recreation, and open space; streets and roads; mass transit; and other activities, facilities, and utilities of an urban nature, such as stormwater management or flood control.

“Very Low-Income Housing” means housing that is affordable, according to the federal Department of Housing and Urban Development, for either home ownership or rental, and that is occupied, reserved, or marketed for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.