

Chapter 66

GENERAL PROVISIONS

Sec. 66-1. Definitions.

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- (a) The purpose of this section is to provide a list of terms and their meanings so as to assist applicants and others in understanding the terms used in Subpart B, Land Use Regulations. Unless incorporated by reference in another chapter or another City ordinance, the definitions in this section are not controlling.

Further, definitions that are unique to a specific chapter of Subpart B, Land Use Regulations, can typically be found in that specific chapter rather than this chapter. Definitions are included in each of the following chapters:

- (1) Chapter 74, Buildings and Building Regulations;
- (2) Chapter 78, Floods;
- (3) Chapter 82, Shoreland Zoning;
- (4) Chapter 86, Signs;
- (5) Chapter 90, Site Plan;
- ~~(6) Chapter 94, Subdivisions;~~
- (7) Chapter 98, Technical Standards; and
- (8) Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Divisions 5, 7 8, and 9, and Chapter 102, Zoning, Article X, Contract Rezoning. (For example, Division 8 includes terms related to the regulation of medical marijuana, and Division 9 includes terms related to the regulation of solar energy systems.)

Applicants and others are encouraged to consult the other chapters of Subpart B, Land Use Regulations, for a list of terms and their meanings that may apply to a specific chapter.

- (b) In the interpretation and enforcement of Subpart B, all words shall carry their customary dictionary meanings. For the purpose of Subpart B, certain words and terms are defined as follows:

- (1) City means The City of Belfast.

- (2) Municipal officers means the City Council.
 - (3) Tense and number. Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.
 - (4) Shall, may. The word "shall" is always mandatory; the word "may" is permissive.
 - (5) Person. Includes a firm, association, organization, partnership, trust, company, corporation, or other legal entity, as well as an individual.
 - (6) Lot. The word "lot" includes the words "plot," "property," and "parcel."
 - (7) Building. The word "building" includes the word "structure."
- (c) The following words, terms and phrases shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Affordable Housing: Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding long-term methods to occupancy by households making 80% or less of the area median household income.

Applicant: The person or entity applying for a permit or approval.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Capital Improvement Plan (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

City Engineer: Any registered professional engineer hired or retained by the City of Belfast, either as staff or on a consulting basis.

Coastal Wetlands: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations unless waived, after the Applicant's written request, by a vote by the Board. The Board shall issue a written statement to the Applicant upon its determination that an application is complete.

Comprehensive Plan: A document or interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan, or as depicted in the drainage divide data layer provided by the Maine office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the Applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the Applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the Applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

Driveway: A vehicular accessway serving not more than two lots or two dwelling units. (This is already in Chapter 66)

Dwelling unit. A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent bathing, cooking, and sleeping facilities; includes single family homes, manufactured homes, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums but not recreational vehicles.

Engineered Subsurface Wastewater Disposal System: A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of wastewater per day or more; or any system designed to be capable of treating wastewater with higher BOD5 and total suspended solids concentrations than domestic wastewater. See Chapter 102, Article IX, Division 7 for specific standards for engineered wastewater systems for multi-family dwelling structures.

Freshwater wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural

classification and the depth to a limiting factor such as seasonal high-water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Multifamily Development: A subdivision which contains three or more dwelling units in the same structure, such as apartment buildings or condominiums. For zoning purposes, multifamily development includes buildings separated by fire walls such as condominiums and townhouses, even though the building code may consider these one- or two-family dwellings.

Net Developable Area: The area of a lot that does not include any of the following:

- 1) Areas of Special Flood Hazard as identified by the Federal Emergency Management Agency,
- 2) Area (land) below the normal high annual tide or normal high watermark of a waterbody,
- 3) Area (land) that would be classified as a freshwater wetland of special significance as such is defined by the State Department of Environmental Protection,
- 4) Area (land) that is part of a right-of-way or access easement that serves more than one other lot or is part of a utility easement granted to the City, Belfast Water District, Waldo County, or Central Maine Power or similar utility companies.

Net Residential Density: The number of dwelling units permitted per net developable area, which often is identified in terms of the number of dwelling units that would be permitted per net acre.

Planned Unit Development (Cluster Subdivision): A subdivision in which dimensional requirements are negotiable for good cause in return for the provision of permanent open space. See Chapter 102, Article VI, Division 1 of the City Ordinance.

Principal Structure. "Principal structure" means any building or structure in which the primary use of the premises takes place.

Professional Engineer: A professional engineer, registered in the State of Maine.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds, and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Street (replace in Chap. 66): Public and private ways such as alleys, avenues, highways, roads, and other rights-of way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street, Arterial: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:

- Back Belmont Road
- Back Searsport Road
- Belmont Avenue
- City Point Road
- Congress Street
- Edgecomb Road

- Field Street
- High Street
- Lincolnvill Avenue
- Main Street
- Marsh Road
- Northport Avenue
- Oak Hill Road
- Poors Mill Road
- Route 1
- Searsport Avenue
- Swan Lake Avenue
- Vine Street
- Waldo Avenue
- Waterville Road
- West Waldo Road

Street, Collector: A street with average daily traffic of 600 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Street, Commercial or Industrial: Streets servicing industrial or primarily commercial uses.

Street, Residential: A street servicing only residential properties and which has an average daily traffic of between 250 and 900 vehicles per day.

Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Subdivision: "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units or division of a structure for commercial or industrial use within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units with a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whom ever accomplished, is considered to create a 3rd lot, unless.

1.Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space as defined in Title 36, Section 1102 for a period of at least 5 years prior to the 2nd dividing occurs; or

2.The division of the tract or parcel is otherwise exempt under this section.

B. The dividing of a tract or parcel and the lot or lots so made, which dividing or lots when made are not subject to this regulation do not become subject to this regulation by the subsequent dividing of that tract or parcel of land or any portion of that tract of parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres shall not be counted as a lot except when the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, Section 435 of the shoreland zoning ordinance, for the City of Belfast.

D. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage, or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this section. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then that exempt division creates a lot or lots for the purpose of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provision of this section regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this section, leased dwelling units are not subject to subdivision review if the Planning Board has determined that the units are otherwise subject to municipal review at least as stringent as that required under this section.

Open Space: As described in Chapter 102 Zoning, Section 102-804 (6) c, Open space areas that are proposed to satisfy the requirements (...) above shall include features on the site that warrant preservation, such as but not limited to: large trees, tree groves, woods, ponds, streams, wetlands, floodplains, aglens, rock outcrops, steep slopes, native plant life and wildlife cover, and special wildlife areas, as well as natural areas that can be used for passive recreational activities, such as walking and hiking. In addition, open space areas can include areas for active recreational and community activities, such as but not limited to: play fields, playgrounds, pavilions, barbecue pits, agricultural fields, and similar facilities. The applicant shall consider, and if deemed warranted by the Board, create opportunities for project residents to access and use open space areas, such as by the construction of a trail system. Stormwater management facilities, such as constructed sand filters and detention or retention basins, shall not be included in the calculation of open space requirements.