



## City of Auburn, Maine

Office of Planning & Permitting

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To: Auburn Planning Board

From: Katherine Cook, Planning Coordinator

Re: Workshop on Council Ordinance 07-02222022: Moratorium on development proposals involving public safety facilities, detention facilities, correctional facilities, and/ or government offices

Date: December 13, 2022

### **I. Workshop/ City Council Ordinance 07-02222022:**

Discuss the moratorium on development proposals involving definitions around public safety facilities, detention facilities and/ or government offices at a site on which one does not currently exist. The workshop is pursuant to Chapter 2, Sec. 2-471 Workshop or informational meetings.

### **II. Planning Board Action:**

Discuss and provide feedback on definitions and land-use ordinances pertaining to prisons, detention facilities, public safety facilities and government offices. Staff Suggests a three-step process: 1. Determine whether Auburn's existing ordinance definition is sufficient as it relates to public safety facilities and similar facilities and uses all being categorized as *governmental offices; municipal, civic, or public service buildings and other utility facilities*. If significant differences exist between the range of uses that could be seen as public safety and detention facilities, then consider defining them as separate uses as other communities have done; 2. Determine appropriate definitions for different use categories; 3. Decide which zones would be appropriate for each use and whether there should be additional criteria to consider when citing new facilities and recommend revisions to the zoning ordinance as appropriate.

### **III. Background**

#### **Prior Meetings and Tentative Future Meetings:**

February 7, 2022—City Council passes moratorium ordinance.

November 15, 2022—Planning Board holds first workshop to discuss the moratorium.

December 13, 2022—Planning Board holds second workshop to discuss the moratorium.

#### **December 11, 2022, Packet Materials (included):**

1. December 13, 2022, Staff Report
2. Ordinance 07-02222022

#### **November 15, 2022, Packet Materials (not included):**

1. November 15, 2022, Staff Report *\*listed mistakenly as Ordinance 07-02072022.*
2. Ordinance 07-02222022

In February 2022 Council passed a public safety, detention and correctional facility moratorium ordinance prohibiting development of any new public safety facilities, detention centers, and prisons for 180 days with a stated reason that the city’s current ordinances governing land use, zoning, site plan review and special exception do not adequately or specifically address public safety facilities, detention facilities, or correctional facilities. The council later voted to extend the moratorium by an additional 180 days until February 2023 because the city had not yet reached a conclusion on the matter; and planning board agendas were booked with other projects. The ordinance directs the board to provide guidance based on public safety, health, environmental, and land use considerations, on which regulations might be appropriate for these facilities and uses. Ordinance 07-02072022 uses the following definitions:

*Correctional Facility*—A facility in which persons are held and housed primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense. This definition includes pre-release facilities but does not include work release centers.

*Detention Facility*—A facility in which persons are held and housed in custody under process of law, pending the outcome of legal proceedings, but not for the purpose of punishment, correction or rehabilitation following a criminal offense.

*Public Safety Facility*—A facility in which the operations of law enforcement, communications, fire services, emergency management, special operations, investigations or civil services are housed for emergency and public safety responses.

Auburn’s land-use ordinances do not address the above terms, but instead *governmental offices; municipal, civic, or public service buildings and other utility facilities; or municipal buildings and uses*. Auburn defines *municipal uses* as any lawful use of a building or of land carried on by the city. Sanitary landfill shall not be deemed a municipal use. Existing usage of the above terms in Auburn’s zoning ordinance vary depending on the zoning district in question; for example: *governmental offices* are permitted in the General Business District, The General Business (II) District, T-5.1, T-5.2, and T-6 in the form-based code districts; and *municipal, civic, or public service buildings and other utility facilities, or municipal uses and buildings, etc.* are also allowed in the General Business District, the General Business (II) district, the Industrial District, the Multifamily Suburban District, the Urban Residence District, and the Low-Density Rural Residence District. This report summarizes the use types like those referenced in Ordinance 07-02072022 currently in Auburn’s municipal code of ordinances. The report then offers additional terms used in neighboring Maine municipalities for the board’s reference in determining whether to change or expand Auburn’s existing definitions. Finally, the report offers some guiding questions for the Board to consider.

#### **IV. References**

Below is an inventory of which zoning districts in Auburn which allow *Municipal, civic or public service buildings and other utility facilities, municipal buildings and uses, and/*

or *government offices*. This list includes other similar uses for reference, though they are not italicized. Like the terms above.

**General Business District: Division 12:** *Governmental Offices* Sec. 60-499 (15) *Municipal, civic or public service buildings and other utility facilities* Sec. 60-499 (16). **Special Exception:** Hospitals, care homes, boardinghouses and lodging houses Sec. 60-499 (b) (5); Any new building of 5,000 square feet or more or any existing building which proposes a use permitted under subsection (a) of this section which will occupy an area of 10,000 square feet or more Sec. 50-578 (b)(35).

**Industrial District: Division 15:** Office Buildings Sec. 60-578 (a) (5), *Municipal uses buildings* Sec. 60-578 (a)(10). **Special Exception:** uses like the uses of this section and not elsewhere named in the following subsections (Sec. 60-578 (b)(29), Any new building of 10,000 square feet or more or any existing building which proposes a use permitted under subsection (a) of this section which will occupy an area of 10,000 square feet or more under Sec. 60-578 (b)(35).

**Multifamily Suburban District: Division 7:** *Municipal buildings and uses* Sec. 60-306 (a)(9). **Special Exception Uses:** Professional Offices Sec. 60-306.

**Low Density Rural Residence District: Division 4:** *Municipal uses and buildings* Sec. 60-229(a)(10) **Special Exception:** Care homes, lodging houses, and boardinghouses Sec. 60-229 (b)(4), Community-bases residential facilities Sec. 60-229 (b)(6).

**Urban Residence District: Division 6:** *Municipal Uses and Buildings* Sec. 60-277 (a)(6).

**Multifamily Suburban District: Division 7:** *Municipal uses and buildings* Sec. 60-306 (a)(9). **Special Exception:** Professional Offices Sec. 60-306 (b)(3).

**Minot Ave (GBII) District: Division 13:** *Governmental offices* Sec. 60-525 (a)(15), *Municipal, civic or public service buildings and any other utility facilities* Sec. 60-525 (a)(16). **Special Exception:** Hospitals, care homes, boardinghouses and lodging houses Sec. 60-525 (b)(3), Any new building over 5,000 square feet or more or any existing building which proposes a use under section 60-525 (a) which will occupy an area of 5,000 square feet or more Sec. 60-525 (b)(14).

**Form-Based Code District: Division 14:** Community based residential facilities, permitted in all form-based code transects; Boardinghouses and lodging houses permitted in all districts, except special exception in T-5.2 and not permitted in T-6; Professional Offices are permitted as special exception in T-4.1, T-4.2, permitted in T-5.1, T-5.2 and T-6; *Governmental Offices are not permitted in T-4.1 and T-4.2, and they are permitted in T-5.1, T-5.2 and T-6* Sec. 60-554.

### **Definitions in other Maine municipalities**

*Municipal buildings and facilities*—facilities owned and operated by the City of Lewiston for the conduct of city business including, but not limited to, municipal office

buildings, schools, police and fire stations, public works garages and facilities, public safety facilities, solid waste disposal facilities, sewerage systems, sewage disposal facilities and similar uses

*Correctional Institution*—A publicly or privately operated facility generally designed for the confinement, correction, and rehabilitation of adult and/ or juvenile offenders sentenced by a court.

*Governmental Offices*—A room or group of rooms uses for conducting the affairs of a government entity, not entailing the sale of goods except which is clearly incidental.

*Government services*—For the purpose of this chapter, *government services* shall include the functions performed by the various government agencies in the City. Government services shall include but not be limited to the following: capital, administration, courts, jails, public safety (police, fire and emergency/ rescue), public schools, postal services, public works and municipal utilities.

*Government uses*—Any building, site, or use owned, operated, or facilitated by any governmental entity or agency.

*Public Facility*—Any facility, including, but not limited to, buildings, property, recreation areas and roads, which is owned, leased, or otherwise operated or funded by a governmental body or public entity.

*Public Safety Services*—Facilities operated by public agencies to provide services relating to the general health, safety, and welfare of the population including but not limited to fire stations and other fire prevention and firefighting facilities; police and sheriff substations and headquarters, including interim incarceration facilities; and emergency response services.

## **V. Guiding questions for the Board to consider:**

1. Do the existing designations for the purposes of land use-*municipal, civic or public service buildings and other utility facilities and governmental offices* categorically include *public safety and detention facilities*?
2. Should the city allow these new facilities in new locations where they do not already exist, or only to allow improvements, expansions, or new facilities where they have historically existed?
3. Does the siting of new locations necessitate the city council to make a finding finding/ resolve that the community need for a certain type of facility exceeds the impacts of such facility. This could be considered after a report on need and impacts from an applicant.
4. Should there be any additional or unique regulations to determine the location of such facilities?