



## 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 07-02072022: Moratorium on development proposals involving Public Safety, Detention, Correctional Facilities and/ or Government Offices

Date: November 15, 2022

### **I. Workshop/ City Council Ordinance 07-02072022:**

Discuss the moratorium on development proposals involving definitions around Public Safety Facilities, Detention Facilities, Correctional Facilities and/ or Government Offices at a site on which one does not currently exist. The workshop is pursuant to Chapter 60 Article XVII Division 2 – Amendment to the Zoning Ordinance.

### **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 to and recommend revisions and/ or specifications as needed.

### **III. Background:**

In February 2022, Council passed a public safety, detention and correctional facility moratorium ordinance prohibiting development of any new public safety, detention, and prisons for 180 days with a stated reason being 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 that moratorium by an additional 180 days until February of 2023 because we had not reached a conclusion on the issues and Planning Board agendas were over scheduled for work. The ordinance directs the Board to provide guidance based on public safety, health, environmental, and land use considerations, on what regulations might be appropriate for these facilities and uses. The ordinance 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 purposes of punishment, correction, or rehabilitation following conviction of 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.

These classifications differ depending on the zoning district in questions. For instance: 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) the Industrial District, the Multifamily Suburban District, the Urban Residence District, the Low-Density Rural Residence District.

Guiding questions for the Board to consider may include:

1. Whether 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. Whether to 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 been historically.
3. Whether the siting of new locations warrants involvement of the City Council for a finding/resolve that the community need for a certain type of facilities exceed the impacts of a new 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 and operation of such facilities.

#### IV. References

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

**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 ne 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 5,000 square feet or more Sec. 60-499 b (17).

**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 Sec. 50-578 (b)(35).

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

**Low Density Rural Residential 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-based 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 of 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; Boarding house lodging houses permitted in all except special exception in T-5.2 and not permitted in T-6; Professional Offices Special Exception in T-4.1, T-4.2, permitted in T-5.1, T-5.2 and T-6; Government 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.

Below are some examples of definitions used by other municipalities. Lewiston was chosen because of its proximity, and Augusta was chosen because of its detailed differentiation of such government use descriptions as is warranted for a capital city.

**Lewiston:**

**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 (*Appendix A—Zoning and Land Use Code Article II Definitions*).

**Augusta Sec. 300-201**

**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.

**Government Offices**—A room or group of rooms used 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: capitol, 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.