

City Council Ordinance

CITY OF AUBURN

PUBLIC SAFETY, DETENTION AND CORRECTIONAL FACILITY MORATORIUM ORDINANCE

THE CITY OF AUBURN adopts a Public Safety, Detention, and Correctional Facility Moratorium Ordinance as follows:

WHEREAS, the Androscoggin County Commissioners have announced plans to acquire property within the City to be used as a new or additional location for offices of the Androscoggin County Sheriff's Department and as a new or additional location for the Androscoggin County Jail;

WHEREAS, the current offices of the Androscoggin County Sheriff and the current Androscoggin County Jail are used for law enforcement, communications, emergency management, special operations, investigations, civil service, detention, including the holding and housing of persons in custody under process of law pending the outcome of legal proceedings, and corrections, including the holding and housing of persons for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense;

WHEREAS, the City's current ordinances governing land use, zoning, site plan review and special exception review do not adequately or specifically address Public Safety Facilities, Detention Facilities or Correctional Facilities;

WHEREAS, development of new or additional Public Safety Facilities, Detention Facilities or Correctional Facilities could pose serious threats to the public health, safety and welfare of the residents and businesses abutting or in close proximity to such facilities without adequate provision for issues of public safety, health, land use compatibility, noise, visual degradation and environmental degradation;

WHEREAS, the City is in the process of reviewing its Code of Ordinances, and needs additional time to study its Code of Ordinances to determine the implications of development proposals involving Public Safety Facilities, Detention Facilities and Correctional Facilities;

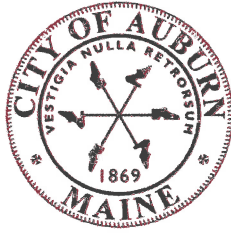
WHEREAS, the City Council and the Planning Board, with such professional advice and assistance as they deem necessary and appropriate, shall study the City's ordinances to determine the public safety, health, land use, environmental and other regulatory implications of development proposals involving Public Safety Facilities, Detention Facilities and Correctional Facilities and consider what regulations might be appropriate for such activity;

WHEREAS, the City's current ordinances are not adequate to prevent serious public harm from proposed development proposals involving Public Safety Facilities, Detention

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Facilities and Correctional Facilities;

WHEREAS, the City's current ordinances do not contain sufficient standards to effectively provide municipal review and approval of development proposals involving Public Safety Facilities, Detention Facilities and Correctional Facilities;

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the City considers this moratorium on development proposals involving Public Safety Facilities, Detention Facilities, and Correctional Facilities;

WHEREAS, amendments to ordinances may require public hearings by the Planning Board and City Council and votes by the Planning Board and City Council; and

WHEREAS, in the judgment of the City, these facts create an emergency within the meaning of 30-A M.R.S.A. § 4356(1), and require this Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the City does hereby ordain that the following Moratorium Ordinance be, and hereby is, enacted:

Section 1. Moratorium Declared.

The City does hereby declare a moratorium on development proposals involving Public Safety Facilities, Detention Facilities, or Correctional Facilities at a site on which one currently does not exist. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended or modified by the City Council, for the express purpose of drafting an amendment or amendments to City ordinances to protect the public from health and safety risks including, but not limited to, the potential adverse public safety, health, land use compatibility, noise, environmental degradation and visual degradation effects of development proposals involving a Public Safety Facility, Detention Facility or Correctional Facility if not properly regulated; and

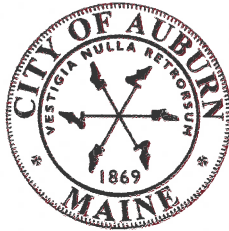
BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall apply to any development proposals involving a Public Safety Facility, Detention Facility, or Correctional Facility for which an application for site plan review has not been determined to be complete by vote of the Planning Board prior to February 22, 2022, which is the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall start or engage in the construction or operation of a Public Safety Facility, Detention Facility, or Correctional Facility for which an application for site plan review has not been determined to be complete by vote of the

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Planning Board prior to February 22, 2022, without complying with whatever ordinance amendment or amendments the City may enact as a result of this moratorium; and

BE IT FURTHER ORDAINED, that during the time this moratorium is in effect, no officer, official, employee, office, administrative board or agency of the City shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, certificate of approved use, conditional use review, special exception review and/or any other permits, licenses or approvals related to a Public Safety Facility, Detention Facility, or Correctional Facility for which an application for site plan review has not been determined to be complete by vote of the Planning Board prior to February 22, 2022; and

BE IT FURTHER ORDAINED, that those provisions of the City's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 2. Violations; Civil Penalties.

If the construction or operation of a Public Safety Facility, Detention Facility, or Correctional Facility is initiated in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties in accordance with 30-A M.R.S.A. § 4452 or City ordinance, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 3. Definitions.

Correctional Facility means 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.

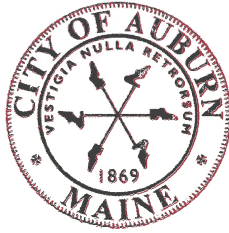
City means the City of Auburn, Maine, a municipal corporation organized and existing under the laws of the State of Maine.

Detention Facility means 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.

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Public Safety Facility means 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.

Section 4. Effective Date; Emergency Declaration

The City Council declares the existence of an emergency because the Code of Ordinances is insufficient to prevent serious public harm that could be caused by the unregulated development of Public Safety Facilities, Detention Facilities, and Correctional Facilities, thereby necessitating a moratorium to provide an opportunity for the City to review the potential impacts and harm that may be caused by such development, and to amend its Code of Ordinances to mitigate the potential impact and harm on the City, its businesses and its residents. This Ordinance shall be effective immediately upon enactment by the City Council and shall remain in effect for one hundred and eighty (180) days from the date of enactment unless it is adopted as a regular ordinance within that time period.

Passage of first reading on 2/22/2022 6-1 (Councilor Staples opposed).

Passage of second reading on 3/7/2022 5-2 (Councilors Gerry and Staples opposed).

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