

City of Augusta, Maine
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT
CODE ENFORCEMENT
ECONOMIC DEVELOPMENT



ENGINEERING
FACILITIES & SYSTEMS
PLANNING

Memo

To: Planning Board

From: Matt Nazar, Director of Development Services

Date: September 12, 2016

Re: Group Homes, Religious Activities and Associated Uses, Homeless Shelters, etc

At the last Planning Board meeting it was clear that the impact of a variety of uses on a neighborhood as well as freedom to practice one's religion were the primary concerns mentioned by those that spoke. The issues that need to be addressed appear to be:

1. Dwelling Unit definition
 2. Group Home definition in the context of state and federal law
 3. Boarding Home definition
 4. Rooming House definition
 5. Religious Activities and Associated Uses definition(s)
 6. Shelter definition
 7. Where each of these uses will be allowed within the city
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1. The foundation of discussing residential uses is the definition of a "Dwelling Unit". Augusta's Land Use Ordinance definition of a "Dwelling Unit" does not match the definition in the NFPA Life Safety 101 code or the International Residential Code, which is the state adopted building code. Augusta's definition is:

"DWELLING UNIT: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family."

Staff recommends the following change to match the other existing definitions and avoid confusion when talking about rooming houses and other uses that differ from a traditional dwelling unit.

"DWELLING UNIT: One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household."

2. The Augusta Land Use Ordinance includes the following definition:

“GROUP HOMES: A residential care facility licensed by the State of Maine, wherein persons not legally related to the operator are provided personal care, supervision and social or rehabilitative services. The facility serves as a substitute for the residents' own homes, furnishing facilities and comforts normally found in a home but providing, in addition, such service, equipment, and safety features as are required for safe and adequate care of the residents. "Group home" includes community living uses, as defined in 30 M.R.S.A. § 4962-A,[2] but does not include foster family homes or nursing homes.”

The Table of Uses includes the following use

“Group and Boarding Home”

Staff recommends discussing the following possible changes to the definition, in keeping with state law, in order to increase clarity.

“GROUP HOMES: A residential care facility licensed by the State of Maine, wherein more than eight (8) persons not legally related to the operator are provided personal care, supervision and social or rehabilitative services. The facility serves as a substitute for the residents' own homes, furnishing facilities and comforts normally found in a home but providing, in addition, such service, equipment, and safety features as are required for safe and adequate care of the residents. ~~"Group home" includes community living uses, as defined in 30 M.R.S.A. § 4962-A,[2] but does not include foster family homes or nursing homes.”~~

“COMMUNITY LIVING ARRANGEMENT: As defined in 30-A M.R.S.A. § 4357-A, means a housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State. A community living arrangement may include a group home, foster home or intermediate care facility.”

In the Table of Uses, the Board should remove the use “Group and Boarding Home” and consider replacing it with “Group Homes”, possibly allowed in the same districts as currently allowed. And the Board should consider adding the new use “Community Living Arrangement” in all of the zoning districts where a single family home is allowed, as state law requires this use in those districts for all municipalities.

3. Staff recommends eliminating the term “Boarding Home” because this type of use is included within the definition of a “Rooming House”. The dictionary definition of these two terms makes it clear that historically, the two uses were separated primarily by the offering of meals in a Boarding Home and not offering them in a Rooming House. Over the last 100 years, the distinction has blurred and is not functionally relevant. See the next item for some thoughts on the issue.
4. The current definition of a “Rooming House” is:

“ROOMING HOUSE: A building in which three or more rooms are kept, used, maintained,

advertised or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests or tenants for weekly or longer periods, with or without board, for compensation (as distinguished from hotels, motels and tourist homes in which rentals are generally on an overnight basis for transients).”

“ROOMING HOUSE: means a building or group of attached or detached buildings containing three (3) or more rooms for occupancy for weekly or longer periods of time with or without board, in which common kitchen or living facilities may or may not be provided, as distinguished from hotels and tourist homes in which rentals are generally for daily or weekly periods and occupancy is by transients. A rooming house may be operated for profit or by nonprofit agencies which do not require payment from occupants. Rooming house units shall not meet the definition of a dwelling unit. For the purposes of computing density and parking requirements two (2) rooms shall equal one (1) multi-family dwelling unit.”

The definition above closely mirrors Lewiston’s Lodging Unit definition and other definitions of rooming and boarding houses found in other municipalities. It is a housing type that is distinct from an apartment building or a hotel. The issue of a “Boarding Home” is eliminated from the ordinance and becomes irrelevant by way of being incorporated

5. The issue of how religious uses are regulated via the city land use ordinance has come up as a result of question about changes that may occur within the Westside Neighborhood. The current definition in the ordinance is:

“RELIGIOUS ACTIVITIES AND ASSOCIATED USES: A structure or place where persons regularly assemble for worship, ceremonies, rituals, education, and related social events pertaining to a particular system of beliefs, and which structure or place, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. "Religious activities and associated uses" includes but is not limited to churches, religious temples, convents, monasteries, parsonages, rectories, religious camps and retreat sites.”

The following definition may be more appropriate, in general, but may also need to be broken down to allow different intensities of religious uses in some places than in others. In other words, the Westside neighborhood may be an appropriate place for a typical neighborhood scale religious building that seats up to 150 or 200 people, whereas a 1000 seat religious building may be more appropriate on Civic Center Drive. Additionally, other less intense, neighborhood appropriate accessory uses might be acceptable in a historically dense residential neighborhood, while more intense uses might not.

Here’s are some alternative definitions:

“PLACE OF WORSHIP (NEIGHBORHOOD): Any building used for nonprofit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque. The primary worship space shall not have seating for

more than 200 people, shall not have a floor area factor greater than 0.75, and shall not include the following accessory uses: social services, movie theaters, restaurants, recreational facilities, shelter, or any other accessory use that is prohibited as a principal use in the district. Any such accessory uses being actually conducted on a property principally used as a Place of Worship as of August 18, 2016 may continue but shall not be expanded in size or scope. Any new, permissible accessory use must be subordinate to and commensurate with the primary worship space.

“PLACE OF WORSHIP (LARGE): Any building used for nonprofit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque. The primary worship space shall have seating for 200 or more people and may include any accessory use.”

6. The Augusta Land Use Ordinance does not include a definition for a “Homeless Shelter”, and staff are unclear exactly how classify such a use if one were requested. The following possible definition could be added to the ordinance, then appropriate districts for the use will need to be discussed.

“SHELTER: A facility providing temporary overnight shelter to individuals in a dormitory-style or per-bed arrangement.”