

**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: October 13, 2016

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

Changes to the memo from the last Planning Board meeting are in **Bold**.

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. **Meal Center or Food Pantry definition**
  8. Where each of these uses will be allowed within the city
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. **After last week’s meeting, several Planning Board members expressed a desire to look more closely at group homes. Corporation Counsel will be available to discuss how these uses can be regulated within the boundaries of the Federal Fair Housing Act. This may result in additional discussion of the districts where these uses are allowed and may result in additional discussion about whether or not some group homes can be treated differently than other group homes.**

**There are twelve DHHS license types that qualify as a Group Home under our definition. Those licenses are Assisted Living Program (Levels I and II); Residential Care Facility (Levels I, II, III, and IV); Private Non-Medical Institutions (Levels I, II, III, and IV); and Intermediate Care Facility for Persons with Mental Retardation (Group and Nursing). Each type of facility differs from the others in its category in a variety of ways including number of individuals in the facility to the level of care provided to the residents. The state rules for each type of facility run between 50 and 100 pages long. Rather than print and mail hundreds of pages of state rules, I’ll direct you to their location on the internet. Anyone that wants a paper copy of a set of rules, please just let me know and I’ll have them prepared.**

<http://www.maine.gov/sos/cec/rules/10/ch113.htm>

<http://www.maine.gov/sos/cec/rules/10/144/144c118.doc>

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 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."~~

**Group homes would be allowed in the BP, KBD1, CB, CC, CD, PD, PD2, and KL districts as a permitted use, and the IA, RRES, and RR2 districts as a Conditional Use.**

"COMMUNITY LIVING ARRANGEMENT: Means a housing facility for 8 or fewer persons with disabilities or other needs that is approved, authorized, certified or licensed by the State. The residents are not legally related to the operator and are provided personal care, supervision and social or rehabilitative services."

**Community Living Arrangement would be allowed in all districts, except the GS district, as a permitted use.**

In the Table of Uses, the Board should remove the use "Group and Boarding Home".

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 into this definition.

**The use shall be allowed in the same zoning districts where Rooming Houses are currently**

**allowed.**

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, and deals directly with the possible secondary impacts of an accessory use becoming a primary use. After review of the split definition, staff and Corporation Counsel believes it's possible to address the concerns that have been raised about impacts on neighborhoods without splitting the definition. The likelihood of a very large Place of Worship locating in a dense neighborhood is extremely low and would require Planning Board review via the Major Development process. Impacts of such a use could be addressed in that setting.**

Here's the alternative definitions:

**“PLACE OF WORSHIP: 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, or for ceremonies, rituals, education, and related social events. The term includes, but is not necessarily limited to, church, temple, synagogue, and mosque. Any new or expanded retail use, shelter, meal center and food pantry, or educational service conducted on the premises of a Place of Worship shall be considered a separate principal use if it is operated for more than 16 hours a week, for a total of four or more weeks per year.”**

**This would be allowed in all of the districts that currently allow “Religious Activities and Associated Uses”.**

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 (Small): A social services facility providing temporary overnight shelter to eight (8) or fewer individuals in a dormitory-style or per-bed arrangement.”**

**This use would be allowed in the KBD1, KBD2, BP, CB, CC, CD, PD, PD2, districts as a**

permitted use; RA, RB1, RB2, and RC districts as a conditional use.

**“SHELTER (Large): A social services facility providing temporary overnight shelter to more than eight (8) individuals in a dormitory-style or per-bed arrangement.”**

This use would be allowed in the KBD1, KBD2, BP, CB, CC, CD, PD, PD2, districts as a conditional use.

7. MEAL CENTER AND FOOD PANTRY: A social service organization where food is distributed, either prepared or unprepared, for free or below market price.

This use would be allowed in the KBD1, KBD2, BP, CB, CC, CD, PD, PD2, districts as a conditional use.