

1 2 3	(New Draft of H.P. 2067, L.D. 2008) SECOND REGULAR SESSION
4 5	ONE HUNDRED AND TENTH LEGISLATURE
6 7	Legislative Document No. 2111
, 8	H. P. 2264 Reported by the Majority from the Committee on Judiciary. Sent up for concurrence and ordered printed under Joint Rules No. 2. EDWIN H. PERT, Clerk
10 11	STATE OF MAINE
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13 14 15	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-TWO
16 17 18	AN ACT to Permit and Regulate the Location of Group Homes in Residential Districts.
19	Be it enacted by the People of the State of Maine as follows:
20	30 MRSA §4962-A is enacted to read:
21	§4962-A. Community living arrangements
22	1. Legislative intent. It is the intent of the Legis-
23	lature that this section shall affect only single-family
24	residential zones within municipalities. It is also the
25	intent of the Legislature that persons seeking to site a
26	community living use within a community shall investigate
27 28	possible sites throughout the community and not limit their consideration to single-family residential zones.
29	2. Permitted or conditional community living use; def-
30	inition. In order to implement the policy of this State
31	that mentally handicapped or developmentally disabled per-
31	that mentally handicapped or developmentally disabled per-

1 sons should not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, 2 а "community living use" shall be considered a permitted or 3 conditional single-family residential use of property 4 for 5 the purposes of zoning. As used in this section, "community living use" means a state-approved, authorized, certified or 6 7 licensed group home, or intermediate care facility for men-8 tally retarded group home, for 8 or fewer mentally handi-9 capped or developmentally disabled persons.

10 3. Hearing. A municipality shall, within 30 days of action by the office charged with the enforcement of the 11 12 zoning ordinance on an application to establish a community 13 living use within a single-family residential zone, hold а public hearing, unless a community living use is a permitted 14 use within the single-family residential zone. The failure 15 16 to hold the public hearing required by this subsection within the 30 days, unless that time period is extended by 17 mutual agreement of the parties, shall constitute 18 approval 19 of the application.

- A. The public hearing shall be conducted by the body
 authorized by the municipality to act as a zoning board
 of appeals, and interested parties shall be notified.
 The notice period and procedure for zoning appeals, as
 established by the municipality, shall meet the notice
 requirements of this section.
- B. The board of appeals shall receive public comment
 on the proposed community living use. The board may
 modify or disapprove the application only upon a find ing of one or more of the following:
- 30(1) That the proposed use would create or31aggravate a traffic hazard;
- 32(2) That the proposed use would hamper pedestrian33circulation;
- 34(3) That the proposed use would not permit con-
venient access to commercial shopping facilities,
medical facilities, public transportation, fire
protection or police protection;
- 38(4) That the proposed use would not be in con-39formance with applicable building, housing, plumb-40ing and other safety codes, including municipal41minimum lot size and building set-back require-42ments for new construction; or

1	(5) That the proposed use would not be in con-
2	formance with the density requirements of subsec-
3	tion 4.
4	4. Density. Density regulation of community living
5	uses is intended to permit the location of these uses within
6	a municipality while ensuring that they will not become
7	overly concentrated in neighborhoods to the detriment of
8	either the neighborhoods or those residing in the uses.
9	No state agency may approve, authorize, certify or license a
10	community living use, nor shall the board of appeals, pur-
11	suant to an authorized public hearing, approve an applica-
12	tion for a community living use, if:
13 14 15	A. A proposed community living use would be located within 1,500 feet of an existing community living use; or
16 17 18	B. A proposed community living use would result in the excessive concentration of these uses within the zone or municipality.
19	Density regulations may be waived by the board of appeals
20	for adjacent community living uses providing essential com-
21	ponents of a single program.
22 23 24	5. Appeals. Any decision by the board of appeals under this section may be appealed in accordance with section 2411, subsection 3, paragraph F.
25	6. Applicability. Except for the density requirements
26	of subsection 4, this section shall not apply to community
27	living uses authorized, certified or licensed prior to the
28	effective date of this section, nor to community living uses
29	for which application has been made prior to that date, nor
30	to facilities licensed by the Department of Human Services
31	under Title 22, section 8101, subsections 1 to 3, subsection
32	4, paragraph A and subsection 5.
33	STATEMENT OF FACT
34	This new draft completely replaces the bill. The new
35	draft subjects the application for the siting in a
36	single-family residential zone of a group home for 8 or
37	fewer mentally handicapped or developmentally disabled per-

sons to the usual zoning approval, hearing and appeals pro-cess within a municipality. Group homes are made a permit-ted or conditional use, at the choice of each municipality, 39 40

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1 within a single-family residential zone that must meet the 2 in the bill concerning traffic hazards, pedestrian criteria 3 circulation, access to facilities, density requirements and 4 The new draft adds, as criteria, that the use safety codes. 5 must conform to municipal mimimum lot size and building 6 set-back requirements. This new draft also requires а 7 municipality to hold a hearing on an application to site a 8 group home within a single-family residential zone, unless 9 the municipality has made that use a permitted one within 10 single-family residential zone, requiring the no hearing. 11 This new draft also provides, under the density regulations, 12 that an application for a group home may be disapproved if 13 the use would result in an excessive concentration of group 14 homes in the particular zone or in the community as a whole. 15 phrase is also added to the subsection concerning the A 16 applicability of this law to make it clear that this law 17 does not encompass children's homes licensed by the Depart-18 ment of Human Services. Finally, the new draft supplies an 19 initial subsection stating legislative intent: The intent to 20 law apply solely to the siting of group homes in have this 21 single-family residential zones, and not other types of 22 zones, is made clear. The intent of the Legislature con-23 cerning the responsibility of an applicant seeking to site a 24 group home to investigate possible sites within a community 25 outside of a single-family residential zone is also stated.

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