

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 2067, L.D. 2008)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TENTH LEGISLATURE
5

6 **Legislative Document**

No. 2111
7

8
9 H. P. 2264 House of Representatives, March 30, 1982
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**
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 **AN ACT to Permit and Regulate the Location**
17 **of Group Homes in Residential Districts.**
18

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 **possible sites throughout the community and not limit their**
28 **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-**

1 sons should not be excluded by municipal zoning ordinances
2 from the benefits of normal residential surroundings, a
3 "community living use" shall be considered a permitted or
4 conditional single-family residential use of property for
5 the purposes of zoning. As used in this section, "community
6 living use" means a state-approved, authorized, certified or
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
11 action by the office charged with the enforcement of the
12 zoning ordinance on an application to establish a community
13 living use within a single-family residential zone, hold a
14 public hearing, unless a community living use is a permitted
15 use within the single-family residential zone. The failure
16 to hold the public hearing required by this subsection
17 within the 30 days, unless that time period is extended by
18 mutual agreement of the parties, shall constitute approval
19 of the application.

20 A. The public hearing shall be conducted by the body
21 authorized by the municipality to act as a zoning board
22 of appeals, and interested parties shall be notified.
23 The notice period and procedure for zoning appeals, as
24 established by the municipality, shall meet the notice
25 requirements of this section.

26 B. The board of appeals shall receive public comment
27 on the proposed community living use. The board may
28 modify or disapprove the application only upon a find-
29 ing of one or more of the following:

30 (1) That the proposed use would create or
31 aggravate a traffic hazard;

32 (2) That the proposed use would hamper pedestrian
33 circulation;

34 (3) That the proposed use would not permit con-
35 venient access to commercial shopping facilities,
36 medical facilities, public transportation, fire
37 protection or police protection;

38 (4) That the proposed use would not be in con-
39 formance with applicable building, housing, plumb-
40 ing and other safety codes, including municipal
41 minimum lot size and building set-back require-
42 ments for new construction; or

1 within a single-family residential zone that must meet the
2 criteria in the bill concerning traffic hazards, pedestrian
3 circulation, access to facilities, density requirements and
4 safety codes. The new draft adds, as criteria, that the use
5 must conform to municipal minimum lot size and building
6 set-back requirements. This new draft also requires a
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 the single-family residential zone, requiring 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 A phrase is also added to the subsection concerning the
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 have this law apply solely to the siting of group homes in
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.