

HOUSE BILL 166

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO PROPERTY; ENACTING A NEW SECTION OF THE NMSA 1978 TO LIMIT COUNTY AND MUNICIPAL RESTRICTIONS ON CERTAIN BATTERY-CHARGED FENCES WITH ALARM SYSTEMS LOCATED OUTSIDE OF AREAS ZONED EXCLUSIVELY FOR RESIDENTIAL USE; AMENDING A SECTION OF THE NMSA 1978 REGARDING COUNTY AND MUNICIPAL ZONING; PROVIDING DEFINITIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-21-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-1, as amended) is amended to read:

"3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY--  
EXCEPTIONS.--

A. Except as provided in Section 3-21-1.1 NMSA 1978, for the purpose of promoting health, safety, morals or the general welfare, a county or municipality is a zoning

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1 authority and may regulate and restrict within its jurisdiction  
2 the:

3 (1) height, number of stories and size of  
4 buildings and other structures;

5 (2) percentage of a lot that may be occupied;

6 (3) size of yards, courts and other open  
7 space;

8 (4) density of population; and

9 (5) location and use of buildings, structures  
10 and land for trade, industry, residence or other purposes.

11 B. The county or municipal zoning authority may:

12 (1) divide the territory under its  
13 jurisdiction into districts of such number, shape, area and  
14 form as is necessary to carry out the purposes of Sections  
15 3-21-1 through 3-21-14 NMSA 1978; and

16 (2) regulate or restrict the erection,  
17 construction, reconstruction, alteration, repair or use of  
18 buildings, structures or land in each district. All such  
19 regulations shall be uniform for each class or kind of  
20 buildings within each district, but regulation in one district  
21 may differ from regulation in another district.

22 C. All state-licensed or state-operated community  
23 residences for persons with a mental or developmental  
24 disability and serving ten or fewer persons may be considered a  
25 residential use of property for purposes of zoning and may be

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1 permitted use in all districts in which residential uses are  
2 permitted generally, including particularly residential zones  
3 for single-family dwellings.

4 D. A board of county commissioners of the county in  
5 which the greatest amount of the territory of the petitioning  
6 village, community, neighborhood or district lies may declare  
7 by ordinance that a village, community, neighborhood or  
8 district is a "traditional historic community" upon petition by  
9 twenty-five percent or more of the qualified electors of the  
10 territory within the village, community, neighborhood or  
11 district requesting the designation. The number of qualified  
12 electors shall be based on county records as of the date of the  
13 last general election.

14 E. Any village, community, neighborhood or district  
15 that is declared a traditional historic community shall be  
16 excluded from the extraterritorial zone and extraterritorial  
17 zoning authority of any municipality whose extraterritorial  
18 zoning authority extends to include all or a portion of the  
19 traditional historic community and shall be subject to the  
20 zoning jurisdiction of the county in which the greatest portion  
21 of the traditional historic community lies.

22 F. Zoning authorities, including zoning authorities  
23 of home rule municipalities, shall accommodate  
24 multigenerational housing by creating a mechanism to allow up  
25 to two kitchens within a single-family zoning district, such as

1 conditional use permits.

2 G. For the purpose of this section,  
3 "multigenerational" means any number of persons related by  
4 blood, common ancestry, marriage, guardianship or adoption."

5 SECTION 2. A new Section 3-21-1.1 NMSA 1978 is enacted to  
6 read:

7 "3-21-1.1. [NEW MATERIAL] BATTERY-CHARGED FENCES--ALARM  
8 SYSTEMS--LIMITS ON RESTRICTION--DEFINITIONS.--

9 A. As used in this section:

10 (1) "alarm system" means any electrical,  
11 mechanical or electronic device or sensor, including any  
12 integrated components, used to prevent, detect or alert law  
13 enforcement or occupants of burglary, theft or intrusion; and

14 (2) "battery-charged fence" means a fence,  
15 including any integrated components, that has an energizer  
16 driven by a battery and that interfaces with a connected alarm  
17 system in a manner that enables the fence to cause the alarm  
18 system to transmit a signal intended to notify the business  
19 that monitors the alarm system or the business that has a  
20 battery-charged fence or alarm system installed on the premises  
21 in response to an intrusion.

22 B. Except in an area zoned exclusively for  
23 residential use, county and municipal zoning authorities,  
24 including zoning authorities for home rule municipalities,  
25 shall not through zoning or through the adoption of an

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1 ordinance or resolution:

2 (1) prohibit the installation or use of a  
3 battery-charged fence;

4 (2) impose installation or operational  
5 requirements for battery-charged fences or alarm systems  
6 inconsistent with international electrotechnical commission  
7 standards as most recently published or inconsistent with this  
8 section; or

9 (3) require a permit for the installation or  
10 use of a battery-charged fence that is additional to an alarm  
11 permit issued by the local government.

12 C. For purposes of this section, a battery-charged  
13 fence shall:

14 (1) use a battery that is not more than twelve  
15 volts of direct current;

16 (2) produce an electric charge on contact that  
17 does not exceed energizer characteristics set for electric  
18 fence energizers by the international electrotechnical  
19 commission standards as most recently published;

20 (3) be enclosed on the outside only by a non-  
21 electric perimeter fence or wall that is not less than five  
22 feet in height;

23 (4) be ten feet in height, or two feet higher  
24 than the height of the non-electric perimeter fence or wall,  
25 whichever is higher; and

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underscored material = new  
[bracketed material] = delete

1 (5) be marked with conspicuous warning signs  
2 that are located on the fence at not more than thirty-foot  
3 intervals and that read: "WARNING: ELECTRIC FENCE".

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