

1 SENATE BILL 131

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

4 Antonio Maestas and Heather Berghmans

10 AN ACT

11 RELATING TO PROPERTY; ELIMINATING RESTRICTIONS ON BUILDING
12 HEIGHT AND NUMBER OF STORIES; ALLOWING RESIDENTIAL APARTMENTS
13 IN COMMERCIAL ZONES; ALLOWING SMALL-SCALE COMMERCIAL USES IN
14 RESIDENTIAL ZONES; ALLOWING DUPLEXES AND TOWNHOUSES IN
15 RESIDENTIAL ZONES AND MIXED-USE LOTS; ALLOWING ADDITIONAL
16 DWELLING UNITS IN SINGLE-FAMILY ZONING DISTRICTS; PROHIBITING
17 MINIMUM PARKING MANDATES; CREATING AN EXCEPTION FOR ACCESSIBLE
18 PARKING; REVISING THE APPEAL PROCESS; AMENDING, REPEALING AND
19 ENACTING SECTIONS OF THE NMSA 1978.

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

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

24 "3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

25 A. For the purpose of promoting health, safety,

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1 morals or the general welfare, a county or municipality is a
2 zoning authority and:

3 (1) may regulate and restrict within its
4 jurisdiction the:

5 [(1) height, number of stories and] (a)
6 size of buildings and other structures;

7 [(2)] (b) percentage of a lot that may
8 be occupied;

9 [(3)] (c) size of yards, courts and
10 other open space;

11 [(4)] (d) density of population; and
12 [(5)] (e) location and use of buildings,
13 structures and land for trade, industry, residence or other
14 purposes;

15 [B. The county or municipal zoning authority

16 (2) may:

17 [(1)] (a) divide the territory under its
18 jurisdiction into districts of such number, shape, area and
19 form as is necessary to carry out the purposes of Sections
20 3-21-1 through 3-21-14 NMSA 1978; [and

21 [(2)] (b) regulate or restrict the
22 erection, construction, reconstruction, alteration, repair or
23 use of buildings, structures or land in each district. All
24 such regulations shall be uniform for each class or kind of
25 buildings within each district, but regulation in one district

may differ from regulation in another district; and

(c) accommodate one additional dwelling unit within each lot in a single-family zoning district as a permissive use;

(3) shall eliminate restrictions on building height and number of stories;

(4) shall not prohibit residential apartments in commercial zones;

(5) except as provided in this section, shall not prohibit duplexes and townhouses in residential zones or on mixed-use lots; and

(6) shall allow in residential zones development for small-scale commercial uses that provide neighborhood-scale convenience shopping, food, beverages, indoor entertainment or professional offices; provided that the uses comply with local rules governing traffic and noise.

[C.—All] B. State-licensed or state-operated community residences for persons with a mental or developmental disability and serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones for single-family dwellings.

[D.] C. A board of county commissioners of the county in which the greatest amount of the territory of the

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1 petitioning village, community, neighborhood or district lies
2 may declare by ordinance that a village, community,
3 neighborhood or district is a "traditional historic community"
4 upon petition by twenty-five percent or more of the qualified
5 electors of the territory within the village, community,
6 neighborhood or district requesting the designation. The
7 number of qualified electors shall be based on county records
8 as of the date of the last general election.

9 [E.—Any] D. A village, community, neighborhood or
10 district that is declared a traditional historic community
11 shall be excluded from the extraterritorial zone and
12 extraterritorial zoning authority of [any] a municipality whose
13 extraterritorial zoning authority extends to include all or a
14 portion of the traditional historic community and shall be
15 subject to the zoning jurisdiction of the county in which the
16 greatest portion of the traditional historic community lies.

17 [F.] E. Zoning authorities, including zoning
18 authorities of home rule municipalities, shall accommodate
19 multigenerational housing by creating a mechanism to allow up
20 to two kitchens within a single-family zoning district, such as
21 conditional use permits.

22 [G.] F. For the purpose of this section,
23 "multigenerational" means any number of persons related by
24 blood, common ancestry, marriage, guardianship or adoption."

25 SECTION 2. Section 3-21-8 NMSA 1978 (being Laws 1965,

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1 Chapter 300, Section 14-20-6, as amended) is amended to read:

2 "3-21-8. APPEALS TO ZONING AUTHORITY--GROUNDS--STAY OF
3 PROCEEDINGS--

4 ~~[A. The zoning authority shall provide by resolution the procedure to be followed in considering appeals allowed by this section.]~~

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7 ~~B.] A.~~ Any aggrieved person or any officer, department, board or bureau of the zoning authority affected by a decision of an administrative officer, commission or committee in the enforcement of Sections 3-21-1 through 3-21-14 NMSA 1978 or ordinance, resolution, rule or regulation adopted pursuant to these sections may appeal ~~[to the zoning authority. An appeal shall stay all proceedings in furtherance of the action appealed unless the officer, commission or committee from whom the appeal is taken certifies that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. Upon certification]~~ the decision pursuant to the provisions of Section 39-3-1.1 NMSA 1978. The proceedings shall not be stayed except by order of district court after notice to the official, commission or committee from whom the appeal is taken and on due cause shown.

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[C.] B. When an appeal alleges that there is error in any order, requirement, decision or determination by an administrative official, commission or committee in the enforcement of Sections 3-21-1 through 3-21-14 NMSA 1978 or any

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1 ordinance, resolution, rule or regulation adopted pursuant to
2 these sections, the ~~[zoning authority by a majority vote of all~~
3 ~~its members]~~ district court may:

4 (1) authorize, in appropriate cases and
5 subject to appropriate conditions and safeguards, variances or
6 special exceptions from the terms of the zoning ordinance or
7 resolution:

8 (a) that are not contrary
9 to the public interest;

10 (b) where, owing to special conditions,
11 a literal enforcement of the zoning ordinance will result in
12 unnecessary hardship;

13 (c) so that the spirit of the zoning
14 ordinance is observed and substantial justice done; and

15 (d) so that the goals and policies of
16 the comprehensive plan are implemented; or

17 (2) in conformity with Sections 3-21-1 through
18 3-21-14 NMSA 1978:

19 (a) reverse any order, requirement,
20 decision or determination of an administrative official,
21 commission or committee;

22 (b) decide in favor of the appellant; or

23 (c) make any change in any order,
24 requirement, decision or determination of an administrative
25 official, commission or committee."

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1 SECTION 3. A new section of Chapter 3, Article 21 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] ZONING APPLICATIONS--REVIEW AND
4 APPROVAL.--

5 A. Applications seeking approval of uses that are
6 not permitted by right in a zoning ordinance, including
7 conditional use permits, special use permits and special
8 exceptions or use variances, shall be submitted to and decided
9 only by a hearing officer delegated by a county or municipal
10 zoning authority.

11 B. Applications to check zoning compliance for
12 development proposals, including site plans and site
13 development plans, shall be reviewed and decided
14 administratively by designated staff of the local
15 jurisdiction."

16 SECTION 4. [NEW MATERIAL] MINIMUM PARKING MANDATES
17 PROHIBITED.--

18 A. As used in this section, "minimum parking
19 mandate" means a law, a rule or an ordinance that specifies a
20 minimum number of off-street vehicle parking spaces, including
21 within a garage or other enclosed area.

22 B. A political subdivision shall not impose minimum
23 parking mandates for residential, commercial or industrial
24 properties within the political subdivision's jurisdiction.

25 C. Nothing in this section prevents a political

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1 subdivision from passing a minimum parking mandate related to
2 accessible parking spaces.

3 **SECTION 5. REPEAL.**--Section 3-21-9 NMSA 1978 (being Laws
4 1965, Chapter 300, Section 14-20-7, as amended) is repealed.

5 **SECTION 6. APPLICABILITY.**--The provisions of Sections 2
6 and 3 of this act apply to decisions issued and enforcement
7 actions commenced after June 30, 2026.

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