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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 138

**SHORT TITLE:** Zoning Lot Size Requirements

**SPONSOR:** Romero, A

**LAST ORIGINAL**  
**UPDATE:** \_\_\_\_\_ **DATE:** 01/30/2026 **ANALYST:** Gygi

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
RLD	No fiscal impact	No fiscal impact	No fiscal impact			
NMMFA	No fiscal impact	No fiscal impact	No fiscal impact			
WSD	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 17 and Senate Bill 131

### Sources of Information

LFC Files

Agency Analysis Received From  
Regulation and Licensing Department  
New Mexico Mortgage Finance Authority  
Workforce Solutions Department

Agency That was Asked for Analysis but did not Respond  
Department of Finance and Administration  
Municipal League  
New Mexico Counties

## SUMMARY

### Synopsis of House Bill 138

House Bill 138 (HB138) amends Section 3-21-1 NMSA 1978 (Zoning Authority of County or Municipality), prohibiting county or municipalities from imposing lot size requirements for residential properties. The bill also specifies the prohibitions apply to home rule municipalities.

HB138 also amends Section 3-21-11 NMSA 1978 (Conflicts Between Zoning Regulations and Other Statutes and Ordinances) to apply only to premises that are not residential property.

A county or local municipality may still regulate and restrict:

- Height and number of stories
- Percentage of the lot that may be occupied
- The size of yards, courts, and other open space
- Density of population
- Location and use of buildings, structures, land for trade, industry, residence or other purposes

If this zoning statute conflicts with other state statutes and ordinances regarding a property that is not residential, the stricter of the two will take precedence.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

## FISCAL IMPLICATIONS

HB138 is a policy bill and so does not include an appropriation. The bill is not anticipated to have any significant fiscal or operational impact on state agencies, including the Construction Industries Division or other divisions of the Regulation and Licensing Department, the New Mexico Mortgage Finance Authority, or the Workforce Solutions Department.

Local governments may experience costs associated with eliminating residential lot size restrictions in their land use and planning codes.

## SIGNIFICANT ISSUES

HB138 would preempt local zoning codes to address New Mexico's housing shortages. As documented by the Pew Trusts,<sup>1</sup> regulatory barriers are a primary contributor to the state's housing crisis. According to Pew, in New Mexico between 2017 and 2024:

- Homelessness increased 87 percent, 47 percent faster than the national average.
- Median rents increased by 60 percent compared to 27 percent nationally.
- The average cost of a home increased 70 percent, far outpacing wage growth.

Lot size restrictions fall into the category of local regulations that may increase housing costs by limiting density and increasing land costs. As the Workforce Solutions Department explains:

Lot size restrictions can limit the development of affordable and attainable housing by increasing the cost per unit (because the cost of the land for each unit is higher). Historically, lot size minimums have also been a way to prevent multifamily and smaller home development.

The New Mexico Mortgage Finance Authority adds:

House Bill 138 may increase the affordable housing supply by eliminating minimum lot sizes. Higher density zoning may give access to potential low- and moderate-income households by producing lower land costs for the development of affordable housing supply.

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<sup>1</sup> <https://www.pewtrusts.org/en/research-and-analysis/articles/2025/01/21/restrictive-regulations-fuel-new-mexicos-housing-shortage>

[However], this type of zoning may lead to higher density and overcrowding concerns for current residents. On the other hand, allowing high density development can reduce urban sprawl, cut down on the impact of commuting, and provide residents with access to more commercial amenities including grocery stores.

RLD points out that the International Residential Code (IRC) mandates fire separation distances and minimum space required between a structure and the property line to prevent fire spread.

If lot sizes are significantly reduced, builders must still adhere to the IRC's stricter fire-rating requirements for exterior walls and openings when those walls are close to property lines.... [IRC] dictates how a house must be built if it sits less than 5 feet (or 3 feet, depending on local adoption) from the property line.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 138 relates to House Bill 17 and Senate Bill 131 which would amend the same section of zoning code to allow accessory dwelling units, duplexes, townhouses, etc., in residential and commercial zones. SB131 also eliminates height restrictions.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Local restrictions on lot sizes in residential areas may drive up housing prices and limit attempts to increase the supply of affordable housing to address New Mexico's current housing shortage crisis.

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