

HOUSE BILL 483

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

Gregg Schmedes

AN ACT

RELATING TO ZONING AUTHORITY; REQUIRING CERTAIN ZONING  
AUTHORITIES TO PROVIDE A MECHANISM TO ALLOW ADDITIONAL HOUSING  
FOR PERSONS WITH DISABILITIES IN SINGLE-FAMILY ZONING  
DISTRICTS.

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 by Laws 2007, Chapter  
46, Section 3 and by Laws 2007, Chapter 270, Section 1) is  
amended to read:

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

A. For the purpose of promoting health, safety,  
morals or the general welfare, a county or municipality is a  
zoning authority and may regulate and restrict within its  
jurisdiction the:

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- 1                   (1) height, number of stories and size of  
2 buildings and other structures;  
3                   (2) percentage of a lot that may be occupied;  
4                   (3) size of yards, courts and other open  
5 space;  
6                   (4) density of population; and  
7                   (5) location and use of buildings, structures  
8 and land for trade, industry, residence or other purposes.

9                   B. The county or municipal zoning authority may:

- 10                   (1) divide the territory under its  
11 jurisdiction into districts of such number, shape, area and  
12 form as is necessary to carry out the purposes of Sections  
13 3-21-1 through 3-21-14 NMSA 1978; and  
14                   (2) regulate or restrict the erection,  
15 construction, reconstruction, alteration, repair or use of  
16 buildings, structures or land in each district. All such  
17 regulations shall be uniform for each class or kind of  
18 buildings within each district, but regulation in one district  
19 may differ from regulation in another district.

20                   C. All state-licensed or state-operated community  
21 residences for persons with a mental or developmental  
22 disability and serving ten or fewer persons may be considered a  
23 residential use of property for purposes of zoning and may be  
24 permitted use in all districts in which residential uses are  
25 permitted generally, including particularly residential zones

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1 for single-family dwellings.

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

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

20 F. Zoning authorities, including zoning authorities  
21 of home rule municipalities, shall accommodate  
22 multigenerational housing by creating a mechanism to allow up  
23 to two kitchens within a single-family zoning district, such as  
24 conditional use permits. ~~[G.]~~ For the purpose of this  
25 ~~[section]~~ subsection, "multigenerational" means any number of

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1 persons related by blood, common ancestry, marriage,  
2 guardianship or adoption.

3 G. Zoning authorities, including zoning authorities  
4 of home rule municipalities, shall accommodate housing for  
5 persons with disabilities by creating a mechanism, such as a  
6 conditional use permit, to allow an additional detached  
7 dwelling of adequate size, including a kitchen, for the  
8 residence and care of a person with disabilities, as defined by  
9 the zoning authority, in a single-family zoning district or  
10 other zoning district that otherwise limits dwellings to one  
11 per lot."

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