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HOUSE BILL 292

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Linda Serrato

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

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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 ancillary components, used to prevent, detect or alert law
13 enforcement or occupants of burglary, theft or intrusion of a
14 structure or a vehicle used as a commercial structure; and

15 (2) "battery-charged fence" means a fence,
16 including any ancillary components, that has an energizer
17 driven by a battery and that interfaces with a connected alarm
18 system in a manner that enables the fence to cause the alarm
19 system to transmit a signal intended to summon law enforcement
20 in response to an intrusion.

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

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

3 (2) impose installation or operational
4 requirements for battery-charged fences or alarm systems
5 inconsistent with international electrotechnical commission
6 standards as most recently published on or before January 1,
7 2021 or inconsistent with this section; or

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

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

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

15 (2) produce an electric charge on contact that
16 does not exceed energizer characteristics set for electric
17 fence energizers by the international electrotechnical
18 commission standards as most recently published on or before
19 January 1, 2021;

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 the greater of ten feet in height, or
24 two feet higher than the height of the non-electric perimeter
25 fence or wall; and

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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"."

4 SECTION 3. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2024.

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