

HOUSE BILL 17

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

INTRODUCED BY

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AN ACT

RELATING TO HOUSING; ALLOWING ACCESSORY DWELLING UNITS IN
RESIDENTIAL ZONING DISTRICTS; ALLOWING MULTIFAMILY HOUSING IN
COMMERCIAL DISTRICTS AND AREAS NEAR TRANSIT.

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.--

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:

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

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

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

(4) density of population; and

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

B. The county or municipal zoning authority may:

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

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

C. All 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. A board of county commissioners of the county in which the greatest amount of the territory of the petitioning

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

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

17 F. Zoning authorities, including zoning authorities
18 of home rule municipalities, shall:

19 (1) accommodate [multigenerational] housing by
20 creating a mechanism to allow up to two kitchens within a
21 single-family zoning district, such as conditional use permits;

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

25 (2) accommodate accessory dwelling units in

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1 residential zoning districts as a permitted use; and
2 (3) accommodate multifamily housing in
3 commercial zoning districts and areas near major public transit
4 locations as a permitted use.

5 G. As used in this section:

6 (1) "accessory dwelling unit" means a single
7 habitable living unit that is a complete and independent living
8 unit, provides separate ingress and egress, is built on a
9 property with a residential use and includes permanent
10 provisions for sleeping, cooking and sanitation;

11 (2) "major public transit location" means a
12 property with a passenger rail station, a public transit stop
13 that provides daily fixed-route service at intervals of at
14 least fifteen minutes or park-and-ride locations managed by the
15 department of transportation; and

16 (3) "multifamily housing" means a residential
17 property that contains more than one household and includes
18 duplexes and townhouses."

19 SECTION 2. A new section of Chapter 3, Article 21 NMSA
20 1978 is enacted to read:

21 "[NEW MATERIAL] ACCESSORY DWELLING UNITS.--

22 A. As used in this section, "accessory dwelling
23 unit" means a single habitable living unit that is a complete
24 and independent living unit, provides separate ingress and
25 egress, is built on a property with a residential use and

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1 includes permanent provisions for sleeping, cooking and
2 sanitation.

3 B. A zoning authority, including a zoning authority
4 of a home rule municipality, shall accommodate as a permitted
5 use the construction of at least one accessory dwelling unit
6 for each lot within zoning districts that allow residential
7 uses regardless of the size of the lot.

8 C. In regulating accessory dwelling units, a zoning
9 authority, including a zoning authority of a home rule
10 municipality, shall allow:

11 (1) accessory dwelling units to be either
12 attached to or detached from an existing residential structure;

13 (2) accessory dwelling units that have side
14 and rear setbacks that are no more than five feet from the
15 property line and ten feet from any other structure on the
16 property;

17 (3) use of an accessory dwelling unit as an
18 existing dwelling unit; provided that the unit complies with
19 the provisions of this section or will comply after another
20 residential dwelling unit is constructed;

21 (4) accessory dwelling units to have a
22 combined or separate driveway serving the other residential
23 uses on the property;

24 (5) accessory dwelling units to have combined
25 or separate utilities serving the other residential uses on the

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1 property;

2 (6) accessory dwelling units to occupy an
3 existing residential or accessory structure; and

4 (7) accessory dwelling units to occupy an
5 existing residential or accessory structure that has been
6 deemed legally nonconforming to zoning regulations; provided
7 that the scope of the nonconformity is not expanded and the
8 occupation shall not violate health and safety standards.

9 D. The owner of an accessory dwelling unit shall
10 obtain all required approvals and permits prior to the
11 installation of a private liquid waste disposal system that
12 services the land on which the accessory dwelling unit is
13 located.

14 E. A zoning authority, including a zoning authority
15 of a home rule municipality, shall not:

16 (1) impose single-family or owner-occupancy
17 requirements on an accessory dwelling unit;

18 (2) charge additional impact fees if the
19 existing utility infrastructure on the property in which the
20 accessory dwelling unit is located is sufficient to accommodate
21 the accessory dwelling unit;

22 (3) limit the maximum size of an accessory
23 dwelling unit to less than one thousand gross square feet;

24 (4) require more than one parking space per
25 accessory dwelling unit; or

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(5) require additional development, review or aesthetic standards more restrictive than for other residential construction permitted on the property.

F. A zoning authority, including a zoning authority of a home rule municipality, may require an accessory dwelling unit to be used for rentals of terms longer than thirty days.

G. A local ordinance, policy, regulation or neighborhood or homeowner association restriction implemented after the effective date of this 2026 act shall not be a basis for a delay or a denial of a building permit for an accessory dwelling unit.

H. An accessory dwelling unit that conforms to this section shall not be deemed to exceed the allowable density of dwellings for the lot on which it is located and is considered a permissive, residential use that is consistent with the existing general plan and zoning designations for the lot."

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

"[NEW MATERIAL] MULTIFAMILY HOUSING.--

A. As used in this section:

(1) "major public transit location" means a property with a passenger rail station, a public transit stop that provides daily fixed-route service at intervals of at least fifteen minutes or park-and-ride locations managed by the department of transportation; and

(2) "multifamily housing" means a residential property that contains more than one household and includes duplexes and townhouses.

B. A zoning authority, including a zoning authority of a home rule municipality, shall accommodate as a permitted use the construction of multifamily housing in all residential and commercial zoning districts and areas within one-fourth mile of a major public transit location.

C. Multifamily housing may be constructed with:

(1) a minimum density of ten dwelling units per acre;

- (2) a minimum height of thirty-six feet; and
- (3) at least one off-street parking space for each unit in addition to required accessible parking spaces."

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