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HOUSE BILL 138

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

INTRODUCED BY

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AN ACT

RELATING TO ZONING; PROHIBITING COUNTY OR MUNICIPAL ZONING
AUTHORITIES FROM IMPOSING LOT SIZE REQUIREMENTS FOR RESIDENTIAL
PROPERTIES; PROVIDING EXEMPTIONS FOR RESIDENTIAL PROPERTIES.

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:

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

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

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1 [~~(2)~~] (b) percentage of a lot that may
2 be occupied;

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

5 [~~(4)~~] (d) density of population; and

6 [~~(5)~~] (e) location and use of buildings,
7 structures and land for trade, industry, residence or other
8 purposes;

9 [B. ~~The county or municipal zoning authority~~]
10 (2) may:

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

15 [~~(2)~~] (b) regulate or restrict the
16 erection, construction, reconstruction, alteration, repair or
17 use of buildings, structures or land in each district. All
18 such regulations shall be uniform for each class or kind of
19 buildings within each district, but regulation in one district
20 may differ from regulation in another district; and

21 (3) shall not impose lot size requirements in
22 residential zones.

23 [~~(6)~~] B. All state-licensed or state-operated
24 community residences for persons with a mental or developmental
25 disability and serving ten or fewer persons may be considered a

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1 residential use of property for purposes of zoning and may be
2 permitted use in all districts in which residential uses are
3 permitted generally, including particularly residential zones
4 for single-family dwellings.

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

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

23 ~~[F.]~~ E. A zoning ~~[authorities]~~ authority, including
24 a zoning ~~[authorities]~~ authority of a home rule
25 ~~[municipalities]~~ municipality, shall accommodate

1 multigenerational housing by creating a mechanism to allow up
2 to two kitchens within a single-family zoning district, such as
3 conditional use permits.

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

7 SECTION 2. Section 3-21-11 NMSA 1978 (being Laws 1965,
8 Chapter 300, Section 14-20-9) is amended to read:

9 "3-21-11. CONFLICTS BETWEEN ZONING REGULATIONS AND OTHER
10 STATUTES AND ORDINANCES.--If any other statute or regulation or
11 other local ordinance, resolution or regulation adopted under
12 authority of Sections [~~14-20-1 through 14-20-12 New Mexico~~
13 ~~Statutes Annotated, 1953 Compilation~~] 3-21-1 through 3-21-14
14 NMSA 1978 is applicable to the same premises, and that premises
15 is not a residential property, the provision shall govern which
16 requires:

17 A. the greater width or size of yards, courts or
18 other open spaces;

19 B. the lower height of building or a less number of
20 stories;

21 C. the greater percentage of lot or land to be left
22 unoccupied; or

23 D. [~~or imposes~~] other higher standards."