

1 HOUSE BILL 554

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

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

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 3-21-1 NMSA 1978 (being Laws 1965,
17 Chapter 300, Section 14-20-1, as amended) is amended to read:

18 "3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

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

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

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

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

3 (4) density of population; and

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

6 B. The county or municipal zoning authority may:

7 (1) divide the territory under its
8 jurisdiction into districts of such number, shape, area and
9 form as is necessary to carry out the purposes of Sections
10 3-21-1 through 3-21-14 NMSA 1978; and

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

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

24 D. A board of county commissioners of the county in
25 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 residential
3 housing in commercial zoning districts and areas near transit
4 as a permitted use."

5 SECTION 2. A new section of Chapter 3, Article 21 NMSA
6 1978 is enacted to read:

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

8 A. As used in this section, "accessory dwelling
9 unit" means a single habitable living unit that is a complete
10 and independent living unit, provides separate ingress and
11 egress, is built on a property with a residential use and
12 includes permanent provisions for sleeping, cooking and
13 sanitation.

14 B. A zoning authority, including a zoning authority
15 of a home rule municipality, shall accommodate as a permitted
16 use the construction of at least one accessory dwelling unit
17 for each lot within zoning districts that allow residential
18 uses regardless of the size of the lot.

19 C. An accessory dwelling unit shall:

20 (1) be permitted as either attached to or
21 detached from an existing residential structure;

22 (2) have side and rear setbacks that are no
23 more than five feet from the property line and ten feet from
24 any other structure on the property;

25 (3) be permitted as an existing dwelling unit;

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1 provided that the unit complies with the provisions of this
2 section or will comply after another residential dwelling unit
3 is constructed;

4 (4) be permitted to have a combined or
5 separate driveway serving the other residential uses on the
6 property;

7 (5) be permitted to have combined or separate
8 utilities serving the other residential uses on the property;

9 (6) be permitted to occupy an existing
10 residential or accessory structure; and

11 (7) be permitted to occupy an existing
12 residential or accessory structure which has been deemed
13 legally nonconforming to zoning regulations; provided that the
14 size of the nonconformity is not expanded and the occupation
15 shall not diminish health and safety standards.

16 D. The owner of an accessory dwelling unit shall
17 obtain approval from the appropriate health officer prior to
18 any installation of a private liquid waste disposal system.

19 E. A zoning authority, including a zoning authority
20 of a home rule municipality, shall not:

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

23 (2) charge additional impact fees if the
24 existing utility infrastructure is sufficient to accommodate
25 the accessory dwelling unit;

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

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

5 (5) require additional development, review or
6 aesthetic standards more restrictive than for other residential
7 construction permitted on the property, except that a zoning
8 authority may require that the accessory dwelling unit shall be
9 used for rentals of terms longer than thirty days.

10 F. A local ordinance, policy, regulation or
11 neighborhood or homeowner association restriction shall not be
12 a basis for a delay or a denial of a building permit for an
13 accessory dwelling unit.

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

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

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

22 A. As used in this section:

23 (1) "major public transit location" means a
24 property with a passenger rail station, a public transit stop
25 that provides daily fixed-route service at intervals of at

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1 least fifteen minutes or park and ride locations managed by the
2 department of transportation; and

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

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

11 C. Multifamily housing may be constructed with:

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

14 (2) a minimum height of thirty-six feet; and

15 (3) at least one off-street parking space for
16 each unit in addition to required accessible parking spaces."