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SENATE BILL 285

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO ZONING REGULATIONS; ALLOWING FOR MULTIGENERATIONAL HOUSING WITHIN A SINGLE-FAMILY ZONING DISTRICT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1995.

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 1995, Chapter 170, Section 4 and also by Laws 1995, Chapter 211, Section 3) 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

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

8 B. The county or municipal zoning authority may:

9 (1) divide the territory under its

10 jurisdiction into districts of such number, shape, area and

11 form as is necessary to carry out the purposes of Sections

12 3-21-1 through 3-21-14 NMSA 1978; and

13 (2) regulate or restrict the erection,

14 construction, reconstruction, alteration, repair or use of

15 buildings, structures or land in each district. All such

16 regulations shall be uniform for each class or kind of

17 buildings within each district, but regulation in one district

18 may differ from regulation in another district.

19 C. All state-licensed or state-operated community

20 residences for the mentally ill or developmentally disabled

21 serving ten or fewer persons may be considered a residential

22 use of property for purposes of zoning and may be permitted use

23 in all districts in which residential uses are permitted

24 generally, including particularly residential zones for single-

25 family dwellings.

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

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

19 F. Zoning authorities, including zoning authorities
20 of home rule municipalities, shall not restrict
21 multigenerational housing by limiting the number of kitchens
22 within a single-family zoning district.

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

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1 plus resident domestic servants."

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