

1 SENATE BILL 322

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Gregg Schmedes

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10 AN ACT

11 RELATING TO ZONING AUTHORITY; REQUIRING CERTAIN ZONING
12 AUTHORITIES TO PROVIDE A MECHANISM TO ALLOW ADDITIONAL HOUSING
13 FOR PERSONS WITH DISABILITIES IN SINGLE-FAMILY ZONING
14 DISTRICTS.

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

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

19 "3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

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

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

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

7 B. The county or municipal zoning authority may:

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

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

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

25 D. A board of county commissioners of the county in

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

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

18 F. Zoning authorities, including zoning authorities
19 of home rule municipalities, shall accommodate
20 multigenerational housing by creating a mechanism to allow up
21 to two kitchens within a single-family zoning district, such as
22 conditional use permits. ~~[G.]~~ For the purpose of this
23 ~~[section]~~ subsection, "multigenerational" means any number of
24 persons related by blood, common ancestry, marriage,
25 guardianship or adoption.

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G. Zoning authorities, including zoning authorities of home rule municipalities, shall accommodate housing for persons with disabilities by creating a mechanism, such as a conditional use permit, to allow an additional detached dwelling of adequate size, including a kitchen, for the residence and care of a person with disabilities, as defined by the zoning authority, in a single-family zoning district or other zoning district that otherwise limits dwellings to one per lot."