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SENATE BILL 310

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

INTRODUCED BY

Antonio Maestas

AN ACT

RELATING TO ZONING; ELIMINATING BUILDING HEIGHT RESTRICTIONS EXCEPT IN HISTORIC DISTRICTS; ALLOWING DEVELOPMENT OF DUPLEXES AND TOWNHOUSES EXCEPT IN HISTORIC DISTRICTS; ALLOWING SMALL-SCALE COMMERCIAL USES IN RESIDENTIAL ZONES.

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. Except as provided in this section, a zoning authority shall:

(1) eliminate restrictions on building height except for historic districts;

(2) not restrict duplexes or townhouses in residential zones except for historic districts; and

underscoring material = new
~~[bracketed material] = delete~~

1 (3) allow development for small-scale
2 commercial uses in residential zones that provide neighborhood-
3 scale convenience shopping, food, beverages, indoor
4 entertainment and professional offices; provided that uses
5 comply with local rules governing traffic and noise.

6 B. The provisions of Subsection A of this section
7 do not apply to traditional historic communities.

8 ~~[A.]~~ C. For the purpose of promoting health,
9 safety, morals or the general welfare, a county or municipality
10 is a zoning authority and may regulate and restrict within its
11 jurisdiction the:

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

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

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

17 (4) density of population; and

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

20 ~~[B.]~~ D. The county or municipal zoning authority
21 may:

22 (1) divide the territory under its
23 jurisdiction into districts of such number, shape, area and
24 form as is necessary to carry out the purposes of Sections
25 3-21-1 through 3-21-14 NMSA 1978; and

.229739.2

underscored material = new
[bracketed material] = delete

1 (2) within the limitations enumerated in
2 Subsection A of this section, regulate or restrict the
3 erection, construction, reconstruction, alteration, repair or
4 use of buildings, structures or land in each district. All
5 such regulations shall be uniform for each class or kind of
6 buildings within each district, but regulation in one district
7 may differ from regulation in another district.

8 [~~C.~~ All] E. State-licensed or state-operated
9 community residences for persons with a mental or developmental
10 disability and serving ten or fewer persons may be considered a
11 residential use of property for purposes of zoning and may be
12 permitted use in all districts in which residential uses are
13 permitted generally, including particularly residential zones
14 for single-family dwellings.

15 [~~D.~~] F. A board of county commissioners of the
16 county in which the greatest amount of the territory of the
17 petitioning village, community, neighborhood or district lies
18 may declare by ordinance that a village, community,
19 neighborhood or district is a "traditional historic community"
20 upon petition by twenty-five percent or more of the qualified
21 electors of the territory within the village, community,
22 neighborhood or district requesting the designation. The
23 number of qualified electors shall be based on county records
24 as of the date of the last general election.

25 [~~E.~~ Any] G. A village, community, neighborhood or

underscoring material = new
~~[bracketed material] = delete~~

1 district that is declared a traditional historic community
2 shall be excluded from the extraterritorial zone and
3 extraterritorial zoning authority of ~~[any]~~ a municipality whose
4 extraterritorial zoning authority extends to include all or a
5 portion of the traditional historic community and shall be
6 subject to the zoning jurisdiction of the county in which the
7 greatest portion of the traditional historic community lies.

8 ~~[F.]~~ H. Zoning authorities, including zoning
9 authorities of home rule municipalities, shall accommodate
10 multigenerational housing by creating a mechanism to allow up
11 to two kitchens within a single-family zoning district, such as
12 conditional use permits.

13 ~~[G.]~~ I. For the purpose of this section,
14 "multigenerational" means any number of persons related by
15 blood, common ancestry, marriage, guardianship or adoption."