

The Regulated Child Care Zoning Requirements Act

Fact Sheet for *Child Care Providers*

What is The Regulated Child Care Zoning Requirements Act?

New Mexico is making history! With the passage of The Regulated Child Care Zoning Requirements Act, New Mexico solidifies its position as a national leader in early childhood education. By legally classifying child care as essential community infrastructure at the local level, we are ensuring that high-quality care is accessible where families and businesses need it most.

Why Clarify the Rules at the Local Level?

For too long, the rules for opening a child care business were a "patchwork" of confusion. A study completed by the Low Income Investment Fund found that over **30% of providers** cited zoning as a primary barrier to expansion¹. Most strikingly, the research revealed that in over **50% of jurisdictions, it was impossible to find the rules for child care zoning without physically walking into a government building**. The Regulated Child Care Zoning Requirements Act changes that by creating a single, clear, statewide framework that treats child care as a community necessity.

Knowing Your Rights Under the New Law: New Mexico is the first state in the nation to provide such comprehensive clarity. The new law ensures that the type of care you provide has clear, predictable rules:

I'm a Home-Based Child Care Provider (Registered and Licensed):

- **“By Right” Zoning:** Your child care home is now officially recognized as a residential use of property. It is permitted "by right" in all residential zones, meaning the city or county cannot treat your child care business any differently than any other home in your neighborhood. The city or county cannot require public hearings or special permits that do not apply to your neighbors.
- **Exempt from Local Fees:** The law clarifies that local authorities shall not charge or collect business license fees or special fees specifically for operating your licensed or registered child care home.



¹ <https://storymaps.arcgis.com/stories/98ca7989b85d44e2b9bd3009fb2b11cd>

- **Parking Relief:** For home-based care, parking rules cannot be any different from what is required for any other standard residence.
- **Homes Operating in a Homeowners' Associations (HOAs):** Child care is recognized as a residential use of property, ensuring providers are treated with the same standards as any other neighbor. HOAs cannot charge or collect any special fees, dues, or taxes for operating a child care home. If an HOA rule conflicts with ECECD licensing standards, the state standards take precedence. Finally, HOAs may still enforce rules regarding parking, noise, safety, architectural standards, and access to or use of common elements, provided they are applied equally to all lot owners and do not restrict child care homes to any greater degree than any other residence.

I'm a provider who runs a Child Care Center:

- **Zoning Rights:** Under the new law, centers are permitted "by right" in all zones designated for commercial, mixed-use, or multi-family residential.
- **Exempt from Local Fees:** The law clarifies that local authorities shall not charge or collect business license fees or special fees specifically for operating your licensed child care center.
- **Use Specific Standards:** Local authorities cannot impose building, safety, or nuisance ordinances on child care centers that are different or more restrictive than those applied to other entities within the same zoning district.
- **Parking Flexibility:** Centers are explicitly permitted to meet their staff parking needs through the use of available on-street parking, shared parking agreements, or other off-site parking options. Your local zoning authority can require on-site "stacking spaces" or a designated lane specifically for the safe and efficient loading and unloading of children

Questions?

If you have questions about how these clarified rules apply to your child care business, contact the **ECECD Hotline** at **1-800-832-1321**.

Learn more about ECECD by visiting nmeccd.org

