

The Regulated Child Care Zoning Requirements Act

Fact Sheet for *Cities and Counties*



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**. By creating a single, clear, statewide framework, the law minimizes the "time tax" on local staff and ensures a family's access to care and ability to work.

Child Care as an Economic Engine: This legislation is a vital tool for local economic stability. Research shows the child care crisis costs New Mexico **\$586 million annually** in lost earnings, productivity, and revenue². Furthermore, child care is a proven revenue generator: **for every \$1 invested in child care, states realize approximately \$2 in local spending**³ because providers spend their earnings locally. By streamlining the path to adding 15,700 new child care slots, we are directly strengthening the local workforce and tax base.

The Role of ECECD Licensing: The law clarifies that the Early Childhood Education and Care Department (ECECD) is the central authority for managing the licensing of child care facilities. ECECD licensing is comprehensive, covering standards for safety, quality, and use-specific operational requirements.

Clarifying Local Obligations Under the New Law: New Mexico is the first state in the nation to provide such comprehensive clarity. The Act streamlines the approval process to a "by right" model, which designates child care as an allowed use that does not require discretionary approvals.

Home-Based Care (Registered and Licensed):

"By Right" Zoning: Child care homes are now recognized as a residential use of property. The law clarifies that local authorities should not enforce rules or regulations on child care homes that do not also apply to other private residences in the same zone. The law clarifies that providers operating licensed or registered home based care are no longer subject to discretionary public hearings or special permits that do not apply to their neighbors.

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

² 2023 ReadyNation report

³ 2023 ReadyNation report

- **Exempt from Local Fees:** The law clarifies that local authorities shall not charge or collect business license fees or special fees specifically for operating a licensed or registered child care home.

Child Care Centers:

- **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 a licensed child care center.
- **Use Specific Standards:** Local authorities are guided to ensure that building, safety, or nuisance ordinances applied to child care centers are the same as those applied to other entities within the same zoning district.
- **Parking Flexibility:** Centers are permitted to meet staff parking needs through available on-street parking, shared agreements, or other off-site options. Local zoning authorities may still require on-site "stacking spaces" (limited to 1 space per 10 children) specifically for safe loading and unloading.

Consistency for Homeowners' Associations (HOAs): The new law clarifies that child care homes are residential uses. HOAs must treat these homes with the same standards as any other residence in the community and cannot impose greater restrictions on child care homes than they would on homes used as a residence. HOAs cannot charge or collect special fees or taxes for the privilege of operating a child care home. Furthermore, state licensing standards remain the primary authority for health and safety, taking precedence over any conflicting local restrictive covenants. 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.

Next Steps for Jurisdictions: To prepare for the July 1, 2026 effective date, jurisdictions are encouraged to audit local codes to ensure they align with these clarified statewide standards. This proactive approach supports New Mexico's commitment to being the best place in the nation to raise a family.

Questions?

If you have questions about how these clarified rules apply to your jurisdiction, contact Shelly Masur, ECE Vice President, Advisory and State Policy at the Low Income Investment Fund at smasur@liifund.org.

Learn more about ECECD by visiting nmeccd.org



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