

The Regulated Child Care Zoning Requirements Act

Fact Sheet for Homeowners' Associations (HOAs)



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.

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 Homeowners' Associations' (HOAs)

Obligations Under the New Law: New Mexico is the first state in the nation to provide such comprehensive clarity. The Act ensures that child care homes² are treated as a residential use of property.

- **Guaranteed Use for Families:** The law clarifies that an association shall not adopt or enforce any restriction, covenant, or rule that effectively prohibits or limits the use of a lot as a registered or licensed child care home.
- **Residential Parity:** Child care homes are recognized as a residential use of property. Associations must treat these homes with the same standards applied to any other residence in the community and may not impose greater restrictions.



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

² "Child care home" means a registered child care home, licensed family child care home or licensed group child care home as defined in Section 9-29-2 NMSA 1978.

- **Clarified Fee Structure:** HOAs cannot assess or collect any special fee, tax, or assessment for the operation of a child care home that is not also required of all other lots in the association.
- **State Standard Precedence:** In the event of a conflict between an HOA's community documents and ECECD licensing requirements, the state's licensing standards for the safety and health of children take precedence. Associations are guided to provide reasonable exceptions to community documents to allow a child care home to comply with state licensing requirements, provided these do not materially impair the association's ability to protect the health and safety of other lot owners.
- **Uniformly Applied Rules:** 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 nmececd.org

