

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 862

By: Newhouse

COMMITTEE SUBSTITUTE

An Act relating to regulation of residential building design elements; prohibiting county and municipal regulation of residential building design elements; providing certain exceptions to regulation of building design elements; defining terms; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1000.30 of Title 59, unless there is created a duplication in numbering, reads as follows:

A county, municipality, city or town shall not regulate single-family residential building design elements unless:

1. The residential building structure is:

- a. located in an area formally designated and declared as a local historic district under applicable state law,
- b. located in an area designated as a historic district on the National Register of Historic Places,

- c. designated as a local, state, or national historic landmark due to its age of over fifty (50) years and its uniquely historic significance,
- d. located on a property that is governed by a regulation created by any valid cooperative contractual agreements between property owners and a county, municipality, city or town,
- e. located on an existing property that is governed by the application of a county, municipal, city or town policy, regulation, or ordinance affecting residential building design elements and such policy, regulation or ordinance was duly and properly adopted by the governing body on an existing property on or before January 1, 2019, but not as to any other property thereafter,
- f. located on a property that is governed by a policy or regulation as set forth within a duly adopted tax increment finance district, or a business improvement district, or
- g. located on a property that is governed by a policy or regulation of an overlay zoning district that was adopted pursuant to applicable state law such as zoning procedures set forth in Title 11 of the

Oklahoma Statutes, and if before the policy or regulation is implemented:

- (1) first class mailed notice is provided directly to record property owners within the overlay district,
- (2) a petition to support the policy or regulation is attached with signatures of a majority of property owners, as such majority is determined by land area of property owners within the proposed overlay district, and
- (3) the overlay district makes a fact-based determination that the policy or regulation complies with applicable fair housing laws; or

2. The regulations are:

- a. directly and substantially related to the requirements of applicable life safety and building codes,
- b. applied to manufactured housing in a manner consistent with applicable law, or
- c. adopted as a condition for participation in the National Flood Insurance Program; and

3. As used in this section:

- a. "residential building design elements" means:
 - (1) type or style of exterior cladding or finish materials,

- (2) style or materials of roof structures, roof pitches, or porches,
 - (3) exterior nonstructural architectural ornamentation,
 - (4) location, design, placement, or architectural styling of windows and doors, including garage doors and garage structures,
 - (5) the number and types of rooms,
 - (6) the interior layout of rooms, and
 - (7) the minimum square footage of a structure, and
- b. "residential building design elements" does not include:
- (1) the height, bulk, orientation, or location of a structure on a lot, or
 - (2) buffering or screening elements located at the perimeter of the property that are used to:
 - (a) minimize visual impacts,
 - (b) mitigate the impacts of light and noise, or
 - (c) protect the privacy of neighbors.

4. This section does not prohibit or diminish the rights of private parties to enact regulations as created by valid private covenants or other contractual agreements among property owners relating to residential building design elements including restrictive covenants and declarations such as those maintained by

1 owners' associations in real estate developments as created under
2 Chapter 17, Section 851 et. seq. of Title 60 of the Oklahoma
3 Statutes, or under the Unit Ownership Estate Act, Section 501 et.
4 seq. of Title 60 of the Oklahoma Statutes.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 43-109.3 of Title 11, unless
7 there is created a duplication in numbering, reads as follows:

8 A county, municipality, city or town shall not regulate single-
9 family residential building design elements unless:

10 1. The residential building structure is:

- 11 a. located in an area formally designated and declared as
- 12 a local historic district under applicable state law,
- 13 b. located in an area designated as a historic district
- 14 on the National Register of Historic Places,
- 15 c. designated as a local, state, or national historic
- 16 landmark due to its age of over fifty (50) years and
- 17 its uniquely historic significance,
- 18 d. located on a property that is governed by a regulation
- 19 created by any valid cooperative contractual
- 20 agreements between property owners and a county,
- 21 municipality, city or town,
- 22 e. located on an existing property that is governed by
- 23 the application of a county, municipal, city or town
- 24 policy, regulation, or ordinance affecting residential

1 building design elements and such policy, regulation
2 or ordinance was duly and properly adopted by the
3 governing body on an existing property on or before
4 January 1, 2019, but not as to any other property
5 thereafter,

6 f. located on a property that is governed by a policy or
7 regulation as set forth within a duly adopted tax
8 increment finance district, or a business improvement
9 district, or

10 g. located on a property that is governed by a policy or
11 regulation of an overlay zoning district that was
12 adopted pursuant to applicable state law such as
13 zoning procedures set forth in Title 11 of the
14 Oklahoma Statutes, and if before the policy or
15 regulation is implemented:

16 (1) first class mailed notice is provided directly to
17 record property owners within the overlay
18 district,

19 (2) a petition to support the policy or regulation is
20 attached with signatures of a majority of
21 property owners, as such majority is determined
22 by land area of property owners within the
23 proposed overlay district, and
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(3) the overlay district makes a fact-based determination that the policy or regulation complies with applicable fair housing laws; or

2. The regulations are:

- a. directly and substantially related to the requirements of applicable life safety and building codes,
- b. applied to manufactured housing in a manner consistent with applicable law, or
- c. adopted as a condition for participation in the National Flood Insurance Program; and

3. As used in this section:

- a. "residential building design elements" means:
 - (1) type or style of exterior cladding or finish materials,
 - (2) style or materials of roof structures, roof pitches, or porches,
 - (3) exterior nonstructural architectural ornamentation,
 - (4) location, design, placement, or architectural styling of windows and doors, including garage doors and garage structures,
 - (5) the number and types of rooms,
 - (6) the interior layout of rooms, and
 - (7) the minimum square footage of a structure, and

1 b. "residential building design elements" does not
2 include:

3 (1) the height, bulk, orientation, or location of a
4 structure on a lot, or

5 (2) buffering or screening elements located at the
6 perimeter of the property that are used to:

7 (a) minimize visual impacts,

8 (b) mitigate the impacts of light and noise, or

9 (c) protect the privacy of neighbors.

10 This section does not prohibit or diminish the rights of private
11 parties to enact regulations as created by valid private covenants
12 or other contractual agreements among property owners relating to
13 residential building design elements including restrictive covenants
14 and declarations such as those maintained by owners' associations in
15 real estate developments as created under Chapter 17, Section 851
16 et. seq. of Title 60 of the Oklahoma Statutes, or under the Unit
17 Ownership Estate Act, Section 501 et. seq. of Title 60 of the
18 Oklahoma Statutes.

19 SECTION 3. This act shall become effective November 1, 2019.

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