

1 ENGROSSED HOUSE
2 BILL NO. 1032

By: Martinez and McBride of the
House

3 and

4 Newhouse of the Senate

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

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

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

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

20 1. The residential building structure is:

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

- 1 c. designated as a local, state, or national historic
2 landmark due to its age of over fifty (50) years and
3 its uniquely historic significance,
- 4 d. located on a property that is governed by a regulation
5 created by any valid cooperative contractual
6 agreements between property owners and a county,
7 municipality, city or town,
- 8 e. located on an existing property that is governed by
9 the application of a county, municipal, city or town
10 policy, regulation, or ordinance affecting residential
11 building design elements and such policy, regulation
12 or ordinance was duly and properly adopted by the
13 governing body on an existing property on or before
14 January 1, 2019, but not as to any other property
15 thereafter,
- 16 f. located on a property that is governed by a policy or
17 regulation as set forth within a duly adopted tax
18 increment finance district, or a business improvement
19 district, or
- 20 g. located on a property that is governed by a policy or
21 regulation of an overlay zoning district that was
22 adopted pursuant to applicable state law such as
23 zoning procedures set forth in Title 11 of the
24

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.

B. As used in this section:

1. "Residential building design elements" means:

- a. type or style of exterior cladding or finish materials,

- b. style or materials of roof structures, roof pitches, or porches,
- c. exterior nonstructural architectural ornamentation,
- d. location, design, placement, or architectural styling of windows and doors, including garage doors and garage structures,
- e. the number and types of rooms,
- f. the interior layout of rooms, and
- g. the minimum square footage of a structure; and

2. "Residential building design elements" does not include:

- a. the height, bulk, orientation, or location of a structure on a lot, or
- b. buffering or screening elements located at the perimeter of the property that are used to:
 - (1) minimize visual impacts,
 - (2) mitigate the impacts of light and noise, or
 - (3) protect the privacy of neighbors.

C. 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 owners' associations in real estate developments as created under Chapter 17, Section 851 et seq. of Title 60 of the Oklahoma

1 Statutes, or under the Unit Ownership Estate Act, Section 501 et
2 seq. of Title 60 of the Oklahoma Statutes.

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

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

8 1. The residential building structure is:

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

1 2. The regulations are:

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

8 B. As used in this section:

9 1. "Residential building design elements" means:

- 10 a. type or style of exterior cladding or finish
- 11 materials,
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- 13 or porches,
- 14 c. exterior nonstructural architectural ornamentation,
- 15 d. location, design, placement, or architectural styling
- 16 of windows and doors, including garage doors and
- 17 garage structures,
- 18 e. the number and types of rooms,
- 19 f. the interior layout of rooms, and
- 20 g. the minimum square footage of a structure; and

21 2. "Residential building design elements" does not include:

- 22 a. the height, bulk, orientation, or location of a
- 23 structure on a lot, or

- b. buffering or screening elements located at the perimeter of the property that are used to:
- (1) minimize visual impacts,
 - (2) mitigate the impacts of light and noise, or
 - (3) protect the privacy of neighbors.

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

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

Passed the House of Representatives the 11th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2019.

Presiding Officer of the Senate