

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1032

By: Martinez and **McBride**

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8 COMMITTEE SUBSTITUTE

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

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

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

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

21 1. The residential building structure is:

- 22 a. located in an area formally designated and declared as
23 a local historic district under applicable state law,
24 b. located in an area designated as a historic district
 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
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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

1 governing body on an existing property on or before
2 January 1, 2019, but not as to any other property
3 thereafter,

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

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

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

17 (2) a petition to support the policy or regulation is
18 attached with signatures of a majority of
19 property owners, as such majority is determined
20 by land area of property owners within the
21 proposed overlay district, and

22 (3) the overlay district makes a fact-based
23 determination that the policy or regulation
24 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,
12 b. style or materials of roof structures, roof pitches,
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
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1 b. buffering or screening elements located at the
2 perimeter of the property that are used to:

- 3 (1) minimize visual impacts,
4 (2) mitigate the impacts of light and noise, or
5 (3) protect the privacy of neighbors.

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

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

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17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
18 03/04/2019 - DO PASS, As Amended and Coauthored.
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