

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
92nd General Assembly
Regular Session, 2019

By: Senator Hester
By Representative Cozart

For An Act To Be Entitled

AN ACT CONCERNING COUNTY AND MUNICIPAL REGULATIONS OF RESIDENTIAL BUILDING DESIGN ELEMENTS; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING COUNTY AND MUNICIPAL REGULATION OF RESIDENTIAL BUILDING DESIGN ELEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 14, Chapter 17, Subchapter 2, is amended to add an additional section to read as follows:

14-17-212. County regulation of residential building design elements prohibited — Exceptions — Definition.

(a) The General Assembly finds:

(1) The Fair Housing Act, 42 U.S.C. § 3601 et seq., decisions of the United States Supreme Court, and other provisions of federal law establish the principles and standards in this section;

(2) The difficulty of and expense for citizens to readily access fundamental property rights protection in federal court; and

(3) This section is necessary to ensure property rights protection is accessible and to ensure state law is consistent with federal law.

(b) This statute does not apply to:

- (1) structures in an area designated as a local historic district;
- (2) structures located in an area designated as a historic district on the National Register of Historic Places;
- (3) structures designated as a local, state, or national historic landmark;
- (4) regulations created by valid private covenants or other contractual agreements among property owners relating to building design elements; or
- (5) regulations that are directly and substantially related to the requirements of any applicable state or national building codes, recognized habitability standards, safety codes, and energy codes;
- (6) regulations that applied to manufactured housing in a manner consistent with applicable law; or
- (7) regulations adopted as a condition for participation in the National Flood Insurance Program.
- (8) A central business improvement district under the Central Business Improvement District Act, § 14-184-101 et seq.;
- (9) A multifamily residential structure or other nonsingle family dwelling;
- (10) A municipal policy, regulation, or ordinance in effect on February 28, 2019;
- (11) A municipal policy, regulation, or ordinance derived from the municipality's police power and directly related to an established public health or safety hazard;
- (12) A valid exercise of authority to regulate residential design building elements found under the Property Owners' Improvement District Law, § 14-93-101 et seq., the Urban Service District Law under § 14-95-101 et seq., or any other improvement district contemplated in Arkansas statutory law;
- (13) A policy or regulation of an overlay district, if before the policy or regulation is implemented:
 - (A) Notice is provided to property owners of the overlay district under § 14-56-422;
 - (B) A petition to support the policy or regulation is attached with signatures of a majority of property owners in the proposed overlay district; and
 - (C) The overlay district makes a determination that the policy or regulation complies with the Private Property Protection Act, § 18-15-1701 et seq.

(c)(1) As used in this section, "residential building design elements" means:

- (A) Exterior building color;
- (B) Type or style of exterior cladding material;
- (C) Style or materials of roof structures, roof pitches, or porches;
- (D) Exterior nonstructural architectural ornamentation;
- (E) Location, design, placement, or architectural styling of windows and doors, including garage doors and garage structures;
- (F) The number and types of rooms;

- (G) The interior layout of rooms; and
- (H) The minimum square footage of a structure.

(2) As used in this section, "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 used to:

- (i) Minimize visual impacts;
- (ii) Mitigate the impacts of light and noise; or
- (iii) Protect the privacy of neighbors.

SECTION 2. Arkansas Code Title 14, Chapter 56, Subchapter 2, is amended to add an additional section to read as follows:

14-56-204. Municipal regulation of residential building design elements prohibited — Exceptions — Definitions.

(a) The General Assembly finds:

(1) The Fair Housing Act, 42 U.S.C. § 3601 et seq., decisions of the United States Supreme Court, and other provisions of federal law establish the principles and standards in this section;

(2) The difficulty of and expense for citizens to readily access fundamental property rights protection in federal court; and

(3) This section is necessary to ensure property rights protection is accessible and to ensure state law is consistent with federal law.

(b) This statute does not apply to:

(1) structures in an area designated as a local historic district;

(2) structures located in an area designated as a historic district on the National Register of Historic Places;

(3) structures designated as a local, state, or national historic landmark;

(4) regulations created by valid private covenants or other contractual agreements among property owners relating to building design elements; or

(5) regulations that are directly and substantially related to the requirements of any applicable state or national building codes, recognized habitability standards, safety codes, and energy codes;

(6) regulations that applied to manufactured housing in a manner consistent with applicable law; or

(7) regulations adopted as a condition for participation in the National Flood Insurance Program.

(8) A central business improvement district under the Central Business Improvement District Act, § 14-184-101 et seq.;

(9) A multifamily residential structure or other nonsingle family dwelling;

(10) A municipal policy, regulation, or ordinance in effect on February 28, 2019;

(11) A municipal policy, regulation, or ordinance derived from the municipality's police power and directly related to an established public health or safety hazard;

(12) A valid exercise of authority to regulate residential design building elements found under the Property Owners' Improvement District Law, § 14-93-101 et seq., the Urban Service District Law under § 14-95-101 et seq., or any other improvement district contemplated in Arkansas statutory law;

(13) A policy or regulation of an overlay district, if before the policy or regulation is implemented:

(A) Notice is provided to property owners of the overlay district under § 14-56-422;

(B) A petition to support the policy or regulation is attached with signatures of a majority of property owners in the proposed overlay district; and

(C) The overlay district makes a determination that the policy or regulation complies with the Private Property Protection Act, § 18-15-1701 et seq.

(c)(1) As used in this section, "residential building design elements" means:

(A) Exterior building color;

(B) Type or style of exterior cladding material;

(C) Style or materials of roof structures, roof pitches, or porches;

(D) Exterior nonstructural architectural ornamentation;

(E) Location, design, placement, or architectural styling of windows and doors, including garage doors and garage structures;

(F) The number and types of rooms;

(G) The interior layout of rooms; and

(H) The minimum square footage of a structure.

(2) As used in this section, "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 used to:

(i) Minimize visual impacts;

(ii) Mitigate the impacts of light and noise; or

(iii) Protect the privacy of neighbors.