

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  
92<sup>nd</sup> 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.