

House Bill 302

By: Representatives Smith of the 133<sup>rd</sup>, Powell of the 32<sup>nd</sup>, Burns of the 159<sup>th</sup>, McCall of the 33<sup>rd</sup>, Frye of the 118<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 8 and Title 36 of the Official Code of Georgia Annotated, relating to  
2 buildings and housing and local government, respectively, so as to prohibit local  
3 governments from adopting or enforcing ordinances or regulations relating to or regulating  
4 building design elements as applied to one or two-family dwellings; to provide for  
5 definitions; to provide for exceptions; to revise the term "zoning" as it relates to zoning  
6 procedures; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Title 8 of the Official Code of Georgia Annotated, relating to buildings and housing, is  
10 amended in Part 1 of Article 1 of Chapter 2, relating to buildings generally, by adding a new  
11 Code section to read as follows:

12 "8-2-5.

13 (a) As used in this Code section, the term:

14 (1) 'Building design element' means, exclusively:

15 (A) Exterior building color;

16 (B) Type or style of exterior cladding material;

17 (C) Style or materials of roof structures or porches;

18 (D) Exterior nonstructural architectural ornamentation;

19 (E) Location or architectural styling of windows and doors, including garage doors;

20 (F) The number and types of rooms;

21 (G) The interior layout of rooms; and

22 (H) Types of foundation structures approved under state minimum standard codes.

23 (2) 'State minimum standard codes' means the following codes:

24 (A) International Building Code (ICC);

25 (B) National Electrical Code (NFPA);

- 26 (C) International Fuel Gas Code (ICC);  
 27 (D) International Mechanical Code (ICC);  
 28 (E) International Plumbing Code (ICC);  
 29 (F) International Residential Code for One- and Two-Family Dwellings (ICC);  
 30 (G) International Energy Conservation Code (ICC);  
 31 (H) International Fire Code (ICC);  
 32 (I) International Existing Building Code (ICC);  
 33 (J) International Property Maintenance Code (ICC); and  
 34 (K) Any other code deemed appropriate by the board for the safety and welfare of  
 35 Georgia's citizens.
- 36 (3) 'Zoning decision' shall have the same meaning as provided in Code Section 36-66-3.  
 37 (4) 'Zoning ordinance' shall have the same meaning as provided in Code Section 36-66-3.
- 38 (b) No county or municipal corporation shall adopt or enforce any ordinance or regulation  
 39 relating to or regulating building design elements as applied to one or two-family dwellings  
 40 except under one or more of the following circumstances:
- 41 (1) The structure is located in an area designated as a historic district pursuant to  
 42 Article 2 of Chapter 10 of Title 44, the 'Georgia Historic Preservation Act';  
 43 (2) The structure is located in an area designated as a historic district on the National  
 44 Register of Historic Places;  
 45 (3) The structure is individually designated as a local, state, or national historic  
 46 landmark;  
 47 (4) The ordinance or regulation is a requirement of applicable state minimum standard  
 48 codes;  
 49 (5) The ordinance or regulation is applied to manufactured homes in a manner consistent  
 50 with Part 2 of Article 2 of this chapter, 'The Uniform Standards Code for Manufactured  
 51 Homes Act,' and applicable federal law; or  
 52 (6) The ordinance or regulation is adopted as a condition of participation in the National  
 53 Flood Insurance Program.
- 54 (c) The provisions of subsection (b) of this Code section shall not be construed to:  
 55 (1) Prohibit or impair the power of a county or municipal corporation to adopt or enforce  
 56 any zoning ordinance or make any zoning decision; or  
 57 (2) Affect the validity or enforceability of private covenants or other contractual  
 58 agreements among property owners relating to building design elements."

59 **SECTION 2.**

60 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended  
 61 by revising paragraph (3) of Code Section 36-66-3, relating to definitions relative to zoning  
 62 procedures, as follows:

63 "(3) 'Zoning' means the power of local governments to provide within their respective  
 64 territorial boundaries for the zoning or districting of property for various uses and the  
 65 prohibition of other or different uses within such zones or districts and for the regulation  
 66 of development and the improvement of real estate, within their respective territorial  
 67 boundaries, to divide property into separate zones or districts, and, in connection with  
 68 such divisions, to regulate the following within ~~such~~ the zones or districts in accordance  
 69 with the uses of property for which such zones or districts were established:

70 (A) Land use;

71 (B) The height, width, area, and size of buildings and other structures;

72 (C) The percentage of lots that may be occupied;

73 (D) The size of yards, courts, and other open spaces;

74 (E) The density of the population;

75 (F) The location and use of buildings, structures, and land;

76 (G) Lot coverage, lot width, lot area, and setbacks;

77 (H) Spacing between buildings and structures;

78 (I) Buffer zones;

79 (J) Parking requirements; and

80 (K) Landscaping requirements."

81 **SECTION 3.**

82 All laws and parts of laws in conflict with this Act are repealed.