

## **Administering State Code Section 10-9a-534 Regulation of building design elements prohibited -- Exceptions.**

During the 2021 Special Session of the Utah Legislature, House Bill 1003 was passed. This bill prohibits the city from requiring certain building design elements from being applied to single and two-family dwellings, with some exceptions. This document is intended to help guide city staff and applicants in applying and administering what became Utah Code 10-9a-534.

Utah Code 10-9a.534 lists specific building elements that cities are prohibited from requiring on single or two-unit dwellings. In Salt Lake City this includes any detached single-family dwelling, duplex, twin home, or cottage style development. The prohibition applies to new construction and any addition or alteration to an existing building. The following building design elements listed in the bill are prohibited from being required:

- a) exterior color;
- b) type or style of exterior cladding material;
- c) style, dimensions, or materials of a roof structure, roof pitch, or porch;
- d) exterior nonstructural architectural ornamentation;
- e) location, design, placement, or architectural styling of a window or door;
- f) location, design, placement, or architectural styling of a garage door, not including a -loading garage door;
- g) number or type of rooms;
- h) interior layout of a room;
- i) minimum square footage over 1,000 square feet, not including a garage;
- j) rear yard landscaping requirements;
- k) minimum building dimensions; or
- l) a requirement to install front yard fencing.

There are some instances where the city can enforce these regulations:

- a) a dwelling located within an area designated as a historic district in:
  - i. the National Register of Historic Places;
  - ii. the state register as defined in Section 9-8-402; or
  - iii. a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;
- b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;
- c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;
- d) building design elements agreed to under a development agreement;
- e) a dwelling located within an area that:
  - (i) is zoned primarily for residential use; and
  - (ii) was substantially developed before calendar year 1950;
- f) an ordinance enacted to implement water efficient landscaping in a rear yard;
- g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:
  - (i) defects in the material of existing cladding; or
  - (ii) consistent defects in the installation of existing cladding; or

- h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:
  - (i) the municipality to apply to the owner's property; and
  - (ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

This results in the city not being able to require some building design elements in some parts of the city but being able to require the elements in other areas, including in the same zoning district found in different parts of the city.

## Impacted Zoning Districts

HB 1003 prohibits cities from enforcing an ordinance requiring the listed building design elements for single and two-family dwellings found on page 1. These housing types are found in numerous zoning districts and throughout the city. The bill applies to building type and therefore applies regardless if the use is a conforming use or if the existing building is complying. It includes new construction and renovations, additions, and alterations to existing single and two-family dwellings. The following is a summary of how the code impacts general zoning districts. A list of specific provisions follows.

### Local Historic Districts

In existing local historic districts or landmark sites, the bill does not impact any requirement or process. Local historic districts are specifically excluded in the code if they were created prior to January 1, 2021. Utah Code 10-9a-534 would prevent the city from applying any of the building design elements in a local historic district created after January 1, 2021. The specific building design elements that would not be able to be enforced in future historic districts include exterior cladding material, roofs, architectural ornamentation, windows, doors, garage doors, and minimum building dimensions. The city could enforce these regulations if the local historic district qualifies for one of the other exceptions listed in Utah Code. This would mean local districts would also have to be national districts or be zoned primarily for residential uses and originally developed prior to 1950.

### National Historic Districts

The code allows local regulations to apply to national historic districts. This is a significant change in the role of national historic districts. In Salt Lake City not all national districts are also local historic districts. In national historic districts, the city will be able to enforce the building design elements listed.

### The Foothill Residential Zoning Districts.

These zoning districts are primarily mapped along the northern and eastern foothills of the city. These areas do not fit one of the exceptions because these areas are not within a national, state, or local historic district adopted prior to January 1, 2001 and were not substantially developed prior to 1950 and there is not another exception listed in the code that applies. It may be possible to regulate some building design elements if the city were to adopt the Wildland Urban Interface Code as a construction code, which would fall outside of the zoning ordinance and could be regulated as part of an adopted building code.

There are three Foothill Districts: FR-1/43,560, FR-2/21,780, and FR-3/12,000. These zoning districts contain provisions related to exterior color, exterior cladding, roof shape and dimensions, windows, front entry requirements, decorative lighting, and garage door location.

### Residential Zoning Districts

Single and/or two-family dwellings are allowed in all 15 residential zoning districts. All residential districts are subject to front entry requirements, require a minimum of at least one story to be above grade, and require garage doors to face a side yard if a garage is built closer to the street than the rest of the house. These regulations would not be enforceable on single and two-family dwellings unless the property qualifies for one of the listed exceptions in the code. The historic district exceptions are discussed above. There are two other exceptions that apply to residential districts:

- if the dwelling is zoned primarily for residential use and if the area was substantially developed prior to 1950; or
- A property owner requests that a land use regulation be applied through some sort of land use application in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning district.

Most of the residential area of the city were developed prior to 1950. Areas that were developed after 1950 would not qualify for an exception. Please see the attached Residential Development By Decade Map. Areas that are zoned for mixed use would also not qualify for this exception. This means that in areas zoned mixed use, the 1950 date is not applicable and the listed building design elements would not be enforceable for single- or two-family dwellings. This also impacts most legal, nonconforming single and two-family dwellings located in commercial districts that have design standards in chapter 21A.37.

The second potential exception is if a property owner is requesting some sort of special approval. In Salt Lake City this includes special exceptions, conditional uses, planned developments, and design review. If someone is submitting one of these applications, the city could apply the building design elements based on the underlying zoning and the standards associated with each process.

### Other Zoning Districts

Single and two-family dwellings are found in other zoning districts throughout Salt Lake City. The adopted state code changes apply in these zoning districts as well. However, the list of exceptions becomes more limited in these zoning districts. The only exceptions that would apply are:

- When located within a local or national historic district;
- When the property owner requests some sort of special approval, such as a special exception, conditional use, planned development, or design review.

The most impacted non-residential zoning districts are the form-based districts (except FB-UN1, which is primarily residential) the TSA zoning districts and the MU zoning district. All other zoning districts are impacted if the district contains existing single or two-family dwellings, either residential type is allowed in the zoning district, and the district includes building design regulations that are listed in the state code.

## Specific Regulations Impacted

### Building Design Elements and the Zoning Code

The following building design elements found in the zoning code would not be able to be enforced for single and two-family dwelling that do not qualify for an exception from the state code. Please note that this is a general list and additional codes may be identified in the future. Any official determination of whether an adopted building design element is required will be made on a case by case basis due to the research necessary. The general rule of thumb is if the neighborhood was developed prior to 1950 or is in an historic district, the building design elements will be enforced.

<b>STANDARD</b>	<b>RELATED STATE CODE PROVISION</b>	<b>NOTES</b>
21A.24.010 I Front Façade Controls, Entrance door facing a street, 10% of façade containing windows, other architectural features	exterior nonstructural architectural ornamentation; location, design, placement, or architectural styling of a window or door	
21A.24.010 J Basement Structures: All dwellings must have at least one full story aboveground.	minimum building dimensions	This is a minimum dimension of a building.
21A.24.010P.1.a Roof gable ends facing onto a front or corner side yard	style, dimensions, or materials of a roof structure, roof pitch, or porch	
21A.24.010P.1.b Roof gable ends facing onto a front or corner side yard	style, dimensions, or materials of a roof structure, roof pitch, or porch	
21A.24.010.P.3.a exterior building colors	exterior color	
21A.24.010.P.3.b exterior building glass	type or style of exterior cladding material	
21A.24.010.P.3.c Roof materials and colors	exterior color; style, dimensions, or materials of a roof structure, roof pitch, or porch	
21A.24.010.P.5 Exterior lighting shall be architecturally integrated, decorative lighting.	exterior nonstructural architectural ornamentation	
21A.24.010.P.13 Colors and building materials on existing structures	exterior color; type or style of exterior cladding material	
21A.24.020.K.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.24.030.K.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	

21A.24.040.K.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.24.050.H.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.24.060.H.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.24.070.H.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.24.080.H.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.24.100.H.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.24.110.H.2.c garage door facing a side yard.	location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door	
21A.26.078.E.2 minimum building height	minimum building dimensions	
21A.26.050.F.2.a EIFS and stucco limitations	type or style of exterior cladding material	
21A.26.050.F.d.2 Minimum first floor height, glass, and porch dimensions	minimum building dimensions; style, dimensions, or materials of a roof structure, roof pitch, or <u>porch</u> ; location, design, placement, or architectural styling of a window or door	
21A.27.030.C.1 Entry requirements in the FB-SE and FB-UN2 zoning district for cottage developments, FB-UN1 district for urban house, two family, and cottage developments. Would also apply to FB-UN3	style, dimensions, or materials of a roof structure, roof pitch, or <u>porch</u>	Only the FB-UN1 is primarily residential, so the exception for areas developed prior to 1950 does not apply to the FB zones that are mixed use.
21A.27.030.C.4.a glass requirements for cottage developments in the FB-SE and	location, design, placement, or architectural styling of a window or door	Only the FB-UN1 is primarily residential, so the exception for areas developed prior

FB-UN2 zoning districts. Would also apply to FB-UN3		to 1950 does not apply to the FB zones that are mixed use.
21A.27.030.C.6 glass requirements for urban house, two family dwellings, and cottage developments in the FB-SE, FB-UN1 and FB-UN2 districts. Would also apply to FB-UN3	location, design, placement, or architectural styling of a window or door	Only the FB-UN1 is primarily residential, so the exception for areas developed prior to 1950 does not apply to the FB zones that are mixed use.
21A.27.030.C.7 Building materials in the FB-SE, FB-UN1, FB-UN2 districts for urban house, two family, and cottage developments. Would also apply to FB-UN3	type or style of exterior cladding material	Only the FB-UN1 is primarily residential, so the exception for areas developed prior to 1950 does not apply to the FB zones that are mixed use.
21A.36.190.A Front Façade Controls		21A.36.090 applies to legally exiting single and two-family dwellings in non-residential zoning districts
21A.36.190.B At least one full story above grade		
21A.36.190.D Entrance Landing		
21A.37.060 Design Standards Required in Each Zoning District.		Multiple design designs standards in this section may apply to single or two-family dwellings. Review on a case by case basis.

## Administering HB1003

Administering HB 1003 will have an impact on processing times, lead to more errors in zoning reviews, and require more decision making from the zoning administrator. It is also likely to lead to more input from neighbors who are displeased that buildings no longer must comply with certain regulations. This is more likely to occur in the foothill zoning districts, residential areas developed after 1950, and in mixed-use neighborhoods. The City should expect an increase in complaints and inquiries about construction work in these situations.

City staff performing zoning reviews are going to have to add new steps to the process. The following are the steps that staff should take to determine if a building design element can be enforced during zoning review:

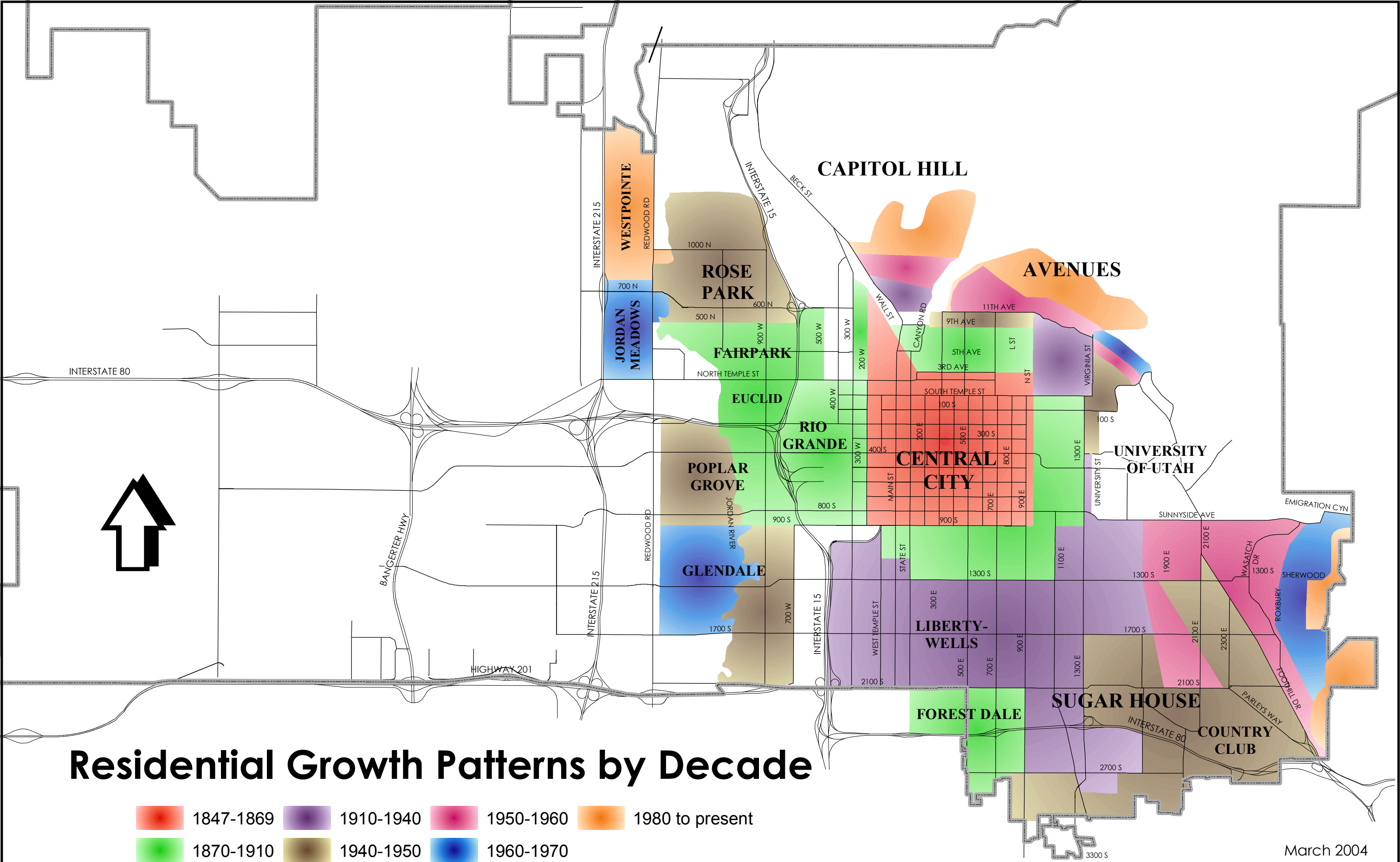
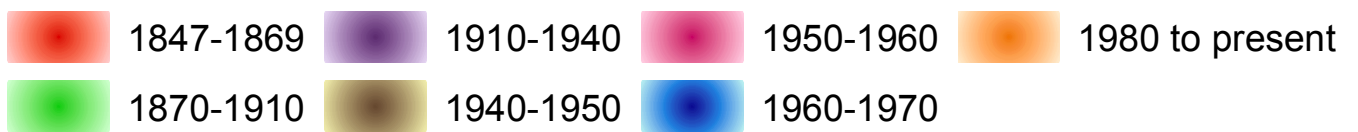
1. Identify the standard in question and verify that it is on the list of building design elements in the state code.

2. Determine if the property is in a zoning district that is primarily residential.
3. Determine if the property qualifies for an exception by checking the following:
  - a. If the property is in a primarily residential zoning district, check “The Residential Growth Period by Decade” map. If the property is clearly in an area that developed prior to 1950, then the design elements can be applied. If it is not, continue to check the other exceptions.
  - b. Check to see if the property is in a local historic district. If so, the building design elements can be applied.
  - c. Check to see if the property is in a national historic district. If so, the building elements can be applied.
  - d. Check to see if the applicant has submitted a special exception, conditional use, planned development, or design review application. If so, the building design elements can be applied.
  - e. Check to see if an existing development agreement applies to the property. If so, and the development agreement applies or refers to building design elements in the agreement or within the zoning code, the building design elements can be applied.
  - f. Check to see if the property is in a subdivision plat. If it is, the subdivision plat may contain some building design elements on the plat. This is particularly true in the foothill zoning districts. If they are, check with the zoning administrator and city attorney’s office to determine if an approved subdivision with these types of requirements qualifies for exception h listed on the first page or in the state code.

Resources:

- HB 1003: <https://le.utah.gov/~2021S1/bills/static/HB1003.html>
- Codified section of Utah Code for HB 1003: [https://le.utah.gov/xcode/Title10/Chapter9A/10-9a-S534.html?v=C10-9a-S534\\_2021051920210528](https://le.utah.gov/xcode/Title10/Chapter9A/10-9a-S534.html?v=C10-9a-S534_2021051920210528)

# Residential Growth Patterns by Decade





# Salt Lake City: Year Built

