

SUMMIT COUNTY, UTAH

ORDINANCE NO. 787-A

AN ORDINANCE AMENDING ORDINANCE 787

RESIDENTIAL PROPERTY TAX EXEMPTIONS

WHEREAS, the Utah Constitution, Article XIII, Section 3 and Utah Code Annotated §§59-2-102 and 59-2-103 (as amended), allows for an exemption equal to a 45% reduction in the fair market value of residential property that is used as a “primary residence;” and

WHEREAS, the Utah Legislature enacted Utah Code Annotated §59-2-103.5 (as amended) establishing procedures for property owners to obtain a tax exemption for residential property and authorizing a county legislative body to adopt an ordinance for the allowance of a residential property tax exemption.

WHEREAS, Summit County has previously adopted such an ordinance, which is codified in Title 1, Chapter 12B, “Residential Property Tax Exemptions,” of the Summit County Code setting forth the application process and procedures for allowing a primary residential property tax exemption;

WHEREAS, the Summit County Council last adopted changes to Title 1, Chapter 12, Article B by way of Ordinance No. 787, adopted on February 5, 2014; and

WHEREAS, the Summit County Council has determined that additional amendments are needed to Title 1, Chapter 12, Article B; and

WHEREAS, this Ordinance accordingly amends Summit County Code, Title 1, Chapter 12, Article B.

NOW THEREFORE, the County Legislative Body of the County of Summit, State of Utah, hereby ordains as follows:

Section 1: The Council hereby amends the Summit County Code, Title 1, Chapter 12, Article B in accordance with Exhibit A herein

Section 2: Effective Date: This Ordinance shall take effect fifteen (15) days after the date of its publication.

APPROVED, ADOPTED, AND PASSED and ordered published by the Summit County Council, this 26 day of August, 2020

SUMMIT COUNTY COUNCIL

SUMMIT COUNTY, UTAH



By Council Chair

ATTEST:



SUMMIT COUNTY CLERK



Date of Publication 9/2, 2020.

**Approved as to form
Summit County Attorney**

By 

EXHIBIT A

ARTICLE B. RESIDENTIAL PROPERTY TAX EXEMPTIONS

1-12B-1: AUTHORITY AND PURPOSE:

1-12B-2: DEFINITIONS:

1-12B-3: APPLICATION:

1-12B-4: CRITERIA FOR RESIDENTIAL EXEMPTIONS

1-12B-5: PROCEDURE:

1-12B-1: AUTHORITY AND PURPOSE:

The Utah Constitution, Article XIII, Section 3 and Utah Code Annotated §§59-2-102 and 59-2-103 (as amended), allows for an exemption equal to a 45% reduction in the fair market value of residential property that is used as a "primary residence." The Utah Legislature enacted Utah Code Annotated §59-2-103.5 (as amended) establishing procedures for property owners to obtain a tax exemption for residential property and authorizing a county legislative body to adopt an ordinance for the allowance of a residential property tax exemption.

1-12B-2: DEFINITIONS:

A. "Domicile" means the place where a person has a true, fixed, permanent home and principal establishment, and to which place he/she has, when absent, the intention of returning. It is the place in which a person has voluntarily fixed the habitation of himself/herself and family, not for a mere special or temporary purpose, but with the present intention of making a permanent home.

B. "Household" means an association of persons who live in the same dwelling sharing its furnishings, facilities, accommodations, and expenses, and includes married individuals, who are not legally separated, who have established Domiciles at separate locations within the state. Married couples may only claim one property as a primary residence except where separate residences are maintained and occupied under a court approved separation agreement.

C. "Part-Year Residential Property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

D. "Primary Residence" means the location where Domicile has been established. It is the principal place where one (property owner or inhabitant) actually lives for one hundred eighty-three (183) or more consecutive calendar days during the calendar year as distinguished from a place of temporary sojourn.

1-12B-3: APPLICATION:

A. Application Required: An application for Primary Residence tax exemption is required when:

1. The specific residential property was ineligible for the tax exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the tax exemption applied to the value of the residential property; or

2. An ownership interest in the residential property changes; or

3. The County Board of Equalization or County Assessor determines that there is reason to believe that the property no longer qualifies for the tax exemption in accordance with this Article and Utah Code Annotated §59-2-103 et. seq.

B. Time Limits for Filing Application: An applicant(s), who is the record owner or his/her representative, shall submit an application for a Primary Residence tax exemption on a form provided by the County Assessor no later than November 30th of the calendar year for which the owner seeks to obtain the residential exemption. The application shall be signed and dated by all owner(s) of record. Any misrepresentation on the application subjects the owner(s) to a penalty equal to the tax on the property's value.

C. Failure to File Timely Application: All applications for a residential exemption received after November 30th shall be denied for that tax year.

D. Part-Time Residential Property:

1. Before a tax exemption may be applied to the value of Part-Time Residential Property, owner(s) of the property shall file an application described in Section 1-12B-3 (A) above with the County Assessor prior to November 30th. The application shall include a statement that certifies:

a. the date the Part-Time Residential Property became residential property; and

b. that the Part-Time Residential Property will be used as residential property for one hundred eighty-three (183) or more consecutive calendar days during the calendar year for which the owner seeks to obtain the tax exemption.

E. No Longer Qualifying: If an owner no longer qualifies to receive a residential exemption authorized by this Article or Utah Code Annotated §59-2-103 et. seq. for the property owner's Primary Residence, the property owner shall file a written notification with the County Assessor that the property owner no longer qualifies to receive a residential exemption for the property owner's Primary Residence.

F. Ownership Change: When an ownership interest in residential property changes, the County Assessor will send out a courtesy notice to the new owner(s) (using the mailing address provided on the recorded instrument that changed ownership) notifying the new owner that they must apply and no longer qualify for the Primary Residence tax exemption. A new application as required under Section 1-12B-3(A) along with instructions will be included. Notwithstanding this subsection, the burden to file a timely application requesting a Primary Residence tax

exemption always remains with the property owner and failure of the County Assessor to send a courtesy notice in no way relieves a property owner of their burden.

G. Audits: As part of the County Assessor's statutory duty to become fully acquainted with all property in the county, the County Assessor may periodically audit those properties which have been granted a Primary Residence tax exemption.

1. Audits Prior to May 22: Where the County Assessor determines, prior to May 22nd (the date on which the assessment roll closes), that sufficient evidence exists that a property no longer qualifies for the Primary Residence tax exemption, he/she shall make necessary changes to the tax roll prior to May 22nd of each year. The County Assessor will send a courtesy notice to the owner notifying them that the Primary Residence tax exemption has been removed from their property. A new application as required under Section 1-12B-3(A) along with instructions will be included.

2. Audits on May 22 and After: Where the County Assessor determines, on May 22nd (the date on which the assessment roll closes) or after, that sufficient evidence exists that property no longer qualifies for the Primary Residence tax exemption, he/she shall send a courtesy notice to the owner notifying them that their Primary Residence tax exemption status will be removed. A new application as required under Section 1-12B-3(A) along with instructions will be included. Any changes to the primary exemption status after the May 22nd assessment roll close date, shall be approved by the Board of Equalization.

H. Grandfather Provision: Property owners whose property was listed as of September 22, 1997, by the County Assessor as having a Primary Residence tax exemption shall not be required to file an application to continue its status. However, should ownership or the property inhabitant's status change or the property is otherwise discovered to not be used as a Primary Residence, the property shall no longer be considered exempt and an application under the provisions of this Article shall apply.

1-12B-4: CRITERIA FOR RESIDENTIAL EXEMPTIONS:

A. Primary Residence: In order to be considered for a Primary Residence tax exemption for the current tax year, the property must be used in the current calendar year as a Primary Residence.

B. Factors In Determining Primary Residence: The County Assessor and the Summit County Board of Equalization may refer to the Administrative Rules of the Utah State Tax Commission for guidance in reviewing the factors and evidence for determining whether an owner qualifies for a tax exemption based on Primary Residence.

C. Additional Information: The County Assessor or the Summit County Board of Equalization may request or collect information sufficient to verify the Primary Residence status of a property to determine if the property is entitled to the residential exemption.

D. Owner Occupied Property Not Required: To qualify for the Primary Residence tax exemption, a property need not be owner occupied. Apartments and other rental housing used as

a Primary Residence of the occupant(s) may qualify for the Primary Residence tax exemption. Property used for transient residential use (motels, nightly rentals, condominiums used in rental pools, etc.) may not. Evidence that the property is regularly utilized for "nightly rentals", as that term is defined in Title 3 of this code, for a period greater than fourteen (14) calendar days in any calendar year, raises a rebuttable presumption that the property no longer qualifies for the Primary Residence tax exemption.

E. One Acre Limitation: No more than one (1) acre of land per residential dwelling unit on a single property parcel identification may qualify for a Primary Residence tax exemption.

F. One Exemption per Household: Except as provided in subsection G below, the residential property tax exemption is limited to one Primary Residence per Household.

G. Ownership Of More Than One Residence: An owner of multiple Primary Residences within Utah is allowed a residential exemption for: i) the Primary Residence of the owner; ii) each residential property that is the Primary Residence of a tenant; and iii) each residential property determined to be under construction per subsection H below.

H. Residential Property Under Construction: Before residential property under construction is allowed a residential exemption, owner(s) of the residential property shall sign and file with the County Assessor a written declaration that states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of residential property, the residential property will be used for residential purposes as a Primary Residence.

I. Multiple Use Property: A property with multiple uses such as a mix of residential and commercial may receive a partial exemption but it is presumed that the entire property is for non-residential purposes. This presumption may be rebutted by the filing of an application in 1-12B-3(A) annually, which includes evidence of Primary Residence of each qualifying resident. The County Assessor may require additional information as necessary to make a determination of the percentage of the property qualifying for the Primary Residence tax exemption.

1-12B-5: PROCEDURE:

A. Burden Of Proof: The residential exemption should not be granted without (a) clear and convincing evidence that the property serves as a Primary Residence; (b) the requirements outlined in Utah Code Annotated 59-2-103.5(1) have been met; and (c) the factors or objective evidence supplied by the applicant are sufficient to make a determination of Domicile. The burden of proof shall remain at all times with the applicant.

B. Determination by the County Assessor: After review of the application set forth in Section 1-12B-3(A), the County Assessor shall make a determination of whether the requirements for a Primary Residence exemption have been met and whether the factors or objective evidence determinative of Domicile are sufficient to approve the applicant's request. The County Assessor shall then make any necessary changes in granting or removing the exemption prior to the assessment roll close on May 22nd of each calendar year. Any such determinations made after

the roll close will require the approval of the Summit County Board of Equalization for any changes made to the tax roll.

C. Appeal: Taxpayers may appeal determinations of the Summit County Board of Equalization regarding the Primary Residential exemption within thirty (30) days of notification to the Utah State Tax Commission, as provided by state law.

D. Conflicts: In the event of any conflict between this Article and state or federal law, the provisions of the latter shall be controlling.