

AMENDMENTS TO RESIDENTIAL PROPERTY TAX EXEMPTION

ORDINANCE NO.   787  

PREAMBLE

WHEREAS, the County Council has determined that certain amendments are needed to the Residential Property Tax Exemption, Summit County Code, Title 1, Chapter 12B; and,

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

NOW, THEREFORE, the County Council of the County of Summit, State of Utah, ordains as follows:

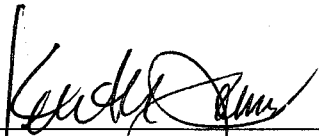
Section 1.     **Amendments.** The Summit County Code, Title 1, Chapter 12B is amended in accordance with Exhibit A herein.

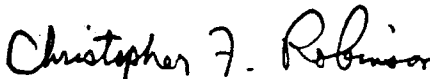
Section 2.     **Effective Date.** In order to preserve the peace, health, or safety of the County and the inhabitants thereof, this Ordinance shall take effect immediately upon publication in a newspaper published in and having general circulation in the County.

Enacted this   5   day of   February  , 2014.

ATTEST:

Summit County Council

  
\_\_\_\_\_  
Kent Jones  
Summit County Clerk

  
\_\_\_\_\_  
Christopher Robinson, Chair



David L. Thomas

Approved as to Form  
David L. Thomas  
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Armstrong	_____ aye _____
Councilmember Robinson	_____ aye _____
Councilmember Ure	_____ aye _____
Councilmember Carson	_____ aye _____
Councilmember McMullin	_____ aye _____

**EXHIBIT A**

# ARTICLE B. RESIDENTIAL PROPERTY TAX EXEMPTIONS

1-12B-1: PROCEDURE:

1-12B-2: CRITERIA:

1-12B-3: GRANDFATHER PROVISION:

1-12B-4: CONFLICTS WITH STATE OR FEDERAL LAW:

1-12B-5: ASSESSOR AUTHORITY TO AUDIT; BOARD OF EQUALIZATION ACTION TO REVOKE EXEMPT STATUS; STANDARD OF REVIEW:

## **1-12B-1: PROCEDURE:**

A. Time Limit For Filing; Information Required: An applicant, who is the record owner or his/her representative, shall submit an application for a primary residential tax exemption for up to 45% of the fair market value of the property to the county assessor. Such application for exemption must be filed on a form provided by the county assessor for that purpose no later than May 1<sup>st</sup> and be signed and dated by the owner(s) of record. The form of application provided by the county assessor shall contain, at a minimum, the following:

1. Property identification (serial number, address, etc.);
2. Identity of the applicant;
3. Owner(s) of record of the property;
4. Basis of the applicant's knowledge of the use of the property;
5. Authority to make the application on behalf of the owner (if applicable);
6. County where property is located; 7. Evidence of the domicile of the inhabitants of the property;
7. Nature of use of the property; and
8. Signature of all record owners of the property certifying that the property is residential property.

B. Failure To File Timely Application: All applications for exemption received after May 1<sup>st</sup> shall be denied for that tax year.

C. Changes Require New Application: A new application of primary residence must be filed when ownership or the status of residency changes. Any misrepresentation on the application subjects the owner to a penalty equal to the tax on the property's value.

D. Authority Of Assessor To Verify Status: Submission of the application authorizes the county assessor to request or collect information sufficient to verify primary residence status.

E. Evidence Of Primary Residence Required; Burden Of Proof: If an applicant requests a property be designated as a primary residence, the residential exemption should not be granted without conclusive evidence that the property serves as a primary residence. The burden of proof shall remain at all times with the applicant.

F. Determinations: The Summit County board of equalization or designated hearing officer shall make all determinations as to the granting of an exemption on or before May 15<sup>th</sup> of each tax year consistent with state law. In the event that an application is not filed on or before May 1<sup>st</sup>, an exemption may be granted by the Summit County board of equalization or designated hearing officer on an individual appeal basis for the current tax year only. After September 15<sup>th</sup>, no appeal applications for exemptions will be considered until the following tax year.

G. Appeal: Taxpayers may appeal determinations of the Summit County board of equalization within thirty (30) days to the Utah state tax commission, as provided by state law. (Ord. 710, 12-17-2008, eff. 1-1-2009)

## **1-12B-2: CRITERIA:**

A. Primary Residence Defined: A "primary residence" means the location where domicile has been established. It is the principal place where one (property owner or inhabitant) actually lives for at least 183 days in each calendar year as distinguished from a place of temporary sojourn. Though motels and other transient properties would not meet this definition, rentals (on a yearly basis) would qualify for the residential property tax exemption.

B. Factors In Determining Primary Residence: The following factors may be considered in determining primary residency:

1. An approved application for residential exemption;

2. The presence of the property inhabitant on the voter registry in the area claimed as a primary residence;
3. The length of continuous residency in the place claimed as a primary residence;
4. The nature and quality of the living accommodations at the claimed primary residence;
5. The presence of family members at the claimed primary residence;
6. The place of residence of the property inhabitant's spouse;
7. The physical location of the property inhabitant's place of business or sources of income;
8. The physical location of the property inhabitant's banking facilities;
9. The location of registration of the property inhabitant's vehicles, boats, and RVs;
10. Property inhabitant's membership in clubs, churches and other social organizations;
11. The property inhabitant's addresses used on such things as:
  - a. Telephone listings;
  - b. Mail;
  - c. State and federal tax returns;
  - d. Listings in official government publications or other correspondence;
  - e. Driver's license;
  - f. Voter registration; and
  - g. Tax rolls;
12. The location of public schools attended by the property inhabitant or his/her dependents;
13. The nature and payment of taxes in other states;
14. Declarations of the property inhabitant:
  - a. Communicated to third parties;
  - b. Contained in deeds;
  - c. Contained in insurance policies;
  - d. Contained in wills;

- e. Contained in letters;
  - f. Contained in registers;
  - g. Contained in mortgages; and
  - h. Contained in leases;
15. The exercise of civil or political rights in a given location;
  16. The failure to obtain permits and licenses normally required of a resident of the area;
  17. The purchase of a burial plot in a particular location; and
  18. The acquisition of a new residence in a different location.

C. **Ownership Of More Than One Residence:** Where a property owner owns more than one residence in the state, or elsewhere, none of which are used as rental property which qualifies for an exemption hereunder, only the residence which is occupied more than six (6) months out of the year by the property owner may qualify as a primary residence for purposes of the residential property tax exemption.

D. **Household:** The residential property tax exemption is limited to one primary residence per household. Household is defined as 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, that 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.

E. **Partial Or Incomplete Homes:** If property under construction will qualify as a primary residence upon completion, the property shall qualify for the primary residential property tax exemption during the tax year in which the property is occupied as a primary residence, so long as said occupation commences on or prior to September 15<sup>th</sup> and an application or appeal for a primary residential property tax exemption has been filed within the time limitations set forth in this article.

F. **Multiple Use Property:** A property with multiple uses, such as residential and commercial, shall receive the primary residential property tax exemption only for the percentage of the property that is used as a primary residence.

G. Property Owner Occupied Not Required: To qualify for the residential exemption, a property need not be property owner occupied. Apartments and other rental housing used as a primary residence (property inhabitant) qualify for the primary residential property tax exemption upon receipt and approval of an application in accordance with sections 1-12B-1 and 1-12B-2 of this article.

H. Limitation: No more than one acre of land per residential dwelling unit on a single property description may qualify for a primary residential property tax exemption. (Ord. 710, 12-17-2008, eff. 1-1-2009)

I. Tax Abatement For Years Prior To Current Tax Year: Tax abatements for prior tax years shall not be approved unless the taxpayer demonstrates by a preponderance of the evidence that an error on the part of the county, which prejudices the taxpayer, has been made. In all instances, the maximum abatement shall be five (5) years. (Ord. 758, 9-14-2011)

### **1-12B-3: GRANDFATHER PROVISION:**

Property owners whose county property was listed as of September 22, 1997 by the county assessor as having a primary residential property tax exemption shall not be required to file an application to continue its status. However, should ownership or the property inhabitant's status change, the property shall no longer be considered exempt and an application under the provisions of this article shall apply. (Ord. 710, 12-17-2008, eff. 1-1-2009)

### **1-12B-4: CONFLICTS WITH STATE OR FEDERAL LAW:**

In the event of any conflict between this article and state or federal law, the provisions of the latter shall be controlling. (Ord. 710, 12-17-2008, eff. 1-1-2009)

### **1-12B-5: ASSESSOR AUTHORITY TO AUDIT; BOARD OF EQUALIZATION ACTION TO REVOKE EXEMPT STATUS; STANDARD OF REVIEW:**

A. As part of the assessor's statutory duty to become fully acquainted with all property in the county, the assessor may periodically audit those properties which have been granted primary residential property tax exempt status. Where the assessor determines that sufficient evidence exists that the property no longer qualifies for the primary residential property tax exemption, he/she shall forward such evidence to the Summit County board of equalization.

B. Prior to April 1<sup>st</sup> of each tax year, the Summit County board of equalization shall provide written notice to all property owners, whose exempt status has been questioned by the assessor, of the date, time, and location where the board shall consider the possible revocation of their primary residential property tax exemption(s). Where the Summit County board of equalization finds by a preponderance of the evidence that the property no longer qualifies for the primary residential property tax exemption, it shall revoke the exemption.

C. 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 residential property tax exemption.