

ORDINANCE #15-12
**AN ORDINANCE ESTABLISHING PROPERTY TAX EXEMPTIONS AND
PROCEDURES**

WHEREAS The Utah constitution, article XIII, section 3 and Utah Code Annotated 59-2-102 and 59-2-103(2) (1953, as amended) provide that a residential exemption from property tax of forty five percent (45%) is available for "primary residences"; and

WHEREAS The Utah legislature enacted Utah Code Annotated section 59-2-103.5 (2002) establishing procedures for property owners to obtain a tax exemption for residential property and authorizing the county legislative body to adopt an ordinance for the allowance of a residential property tax exemption,

NOW THEREFORE, The county legislative body of the County of Daggett, State of Utah, ordains as follows:

1. Procedure:

A. No later than sixty (60) days after either a change in ownership or a change in use of the residence, all owners of residential property as defined in Utah Code Annotated 59-2-102 (1953, as amended) shall sign and submit a form supplied by the county, to the board of Equalization in care of the Daggett County assessor, stating the current use of the property as primary or secondary. The application shall include the following information:

1. The owner of record of the property;
2. Property parcel number;
3. Location of the property (address);
4. Name of the applicant;
5. Basis of the applicant's knowledge of the use of the property;
6. Description of the use of the property;
7. Evidence of domicile of the inhabitant(s) of the property; and
8. Signature(s) of all owners of the property and a certification that the property is residential property.

B. In order to be considered for a primary residential exemption for the current tax year, the property must be used in the current calendar year as a primary residence for at least one hundred eighty three (183) consecutive days and the application must be submitted by August 31.

C. Applications seeking the exemption for the current tax year and filed after May 1 must pay an administrative fee of twenty-five dollars (\$25.00) to the office of the county assessor.

D. Except for those properties receiving a residential exemption which are required to file an application each year, the county board of equalization may require an owner of the residential property to file the application described in subsection A of this section only if:

1. That residential property was ineligible for the primary residence tax exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to claim the exemption; or
2. The ownership interest in that residential property changes; or
3. The county board of equalization or the county assessor determines that there is reason to believe that the property no longer qualifies for the residential exemption in accordance with Utah Code Annotated 59-2-103.

E. The county board of equalization or the county assessor may request or collect information sufficient to verify the primary residence status of the property to determine if the property is entitled to the residential exemption, pursuant to the criteria set forth in the rules promulgated by the Utah state tax commission.

F. If an applicant requests a property be designated as a primary residence, the residential exemption shall not be granted without clear and convincing evidence that the property serves as the primary residence. The burden of proof shall remain at all times with the applicant.

G. After review of the applicant's application, the county assessor shall make a preliminary determination of whether the requirements for a residential residence exemption, outlined in Title 59, Chapter 2 of Utah Code Annotated, have been met, and whether the factors or objective evidence determinative of domicile, which are defined and outlined in section 2 of this ordinance, are sufficient to approve the applicant's request. The county assessor shall then make a recommendation to the board of equalization for approval or denial of the applicant's request. The board of equalization shall allow an owner a residential exemption for the residential property described in the application, upon making a determination that the requirements outlined in Title 59, Chapter 2 of Utah Code Annotated, have been met, and that the factors or objective evidence supplied by the applicant are sufficient to make a determination of domicile.

2. Criteria:

Ent 027120 Bk 0083 Pg 0447

A. Definitions:

1. DOMICILE: The place where an individual has a true, fixed, permanent home and principal establishment, and to which place the person has (whenever the person is absent) the intention of returning. It is the place in which a person has voluntarily fixed

the habitation of the person and the person's family, not for a mere special or temporary purpose, but with the present intention of making a permanent home.

- a. After domicile has been established, two (2) things are necessary to create a new domicile: first, an abandonment of the old domicile; and second, the intention and establishment of a new domicile.
- b. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile; for before a person can be said to have changed a person's domicile, a new domicile must be shown.
- c. The assessor and the board of equalization may refer to the administrative rules of the Utah state tax commission for guidance in reviewing the factors and evidence determinative of domicile.

2. PRIMARY RESIDENCE: The location where domicile has been established.

3. BOARD OF EQUALIZATION: The Daggett County Board of Equalization. If no formal Daggett County Board of Equalization exists, the Daggett County Commission shall be considered the acting board of equalization.

B. Residential Exemption: To qualify for the residential exemption, a property need not be owner occupied. Apartments and other rental housing used as a primary residence of the occupant(s) qualify for the residential exemption in accordance with section 1 of this ordinance. A primary residence does not include property used for transient residential use, or condominiums used in rental pools. Only the primary residence, which is occupied more than six (6) months out of the year, qualifies for the residential exemption. The residential exemption is limited to up to one acre of land per residential dwelling unit on a single property description.

C. Partial Exemption for Mixed Commercial and Residential: A partial exemption may be applied against the property taxes of mixed commercial and residential property but it is presumed that the entire property is commercial. This presumption may be rebutted by the filing of the application referred to in subsection 1.A. of this ordinance every year, which includes evidence of domicile 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 residential exemption.

3. GRANDFATHER PROVISION:

Ent 027120 Bk 0083 Pg 0448

As of the effective date hereof, owner occupied residential property, apartments and other rental property being used as the primary residence of the occupants, where the property is currently listed by the county assessor as having a residential exemption shall not be required to file an application to continue its status. Owner occupied residential property, apartments and other rental property being used as the primary residence of the occupants, where the property is

subsequently listed by the county assessor as having a residential exemption and was constructed after the effective date hereof, shall be required to file the application required by subsection 1 of this ordinance. However, should use change from primary residence, the property shall no longer be considered exempt and an application under the provisions of this ordinance shall be required.

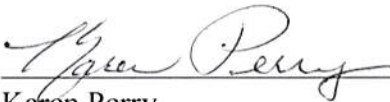
4. CONFLICT:

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

5. STATUTES INCORPORATED:

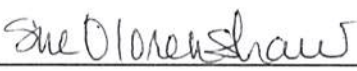
This chapter shall incorporate the provisions of the administrative rules promulgated by the Utah state tax commission, and the criteria for determining primary residence set forth in Utah Code Annotated 59-2-102 and 59-2-103 (1953, as amended); and property tax standard 2.13 primary residential exemption.

Passed, Adopted, and Ordered posted this 2ND day of JUNE, 2015.



Karen Perry,
Chair, Daggett County Commission

Attest:



Sue Olorenshaw, County Clerk

