

DAGGETT COUNTY ORDINANCE 03-02

AN ORDINANCE OF THE COUNTY COMMISSION OF DAGGETT COUNTY
PROVIDING FOR A PROCEDURE AND CRITERIA IN GRANTING RESIDENTIAL
PROPERTY TAX EXEMPTIONS.

The County Commission of Daggett County ordains as follows:

I. Authority and purpose.

The Utah Constitution, article XIII, sec. 2(8) and Utah Code Ann. § 59-2-102(22) and 103(2) (1953, as amended) provide that a residential exemption from property tax of forty-five percent is available for "primary residences". The Utah Legislature enacted Utah Code Ann. § 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 residential property tax exemption.

II. Procedure.

A. All owners of residential property as defined in Utah Code Ann. § 59-2-102(27) (1953, as amended) shall sign and submit an application, on a form supplied by the County, to the County Board of Equalization, in care of the County Assessor, for exemption from property taxes for residential property used as a primary residence, no later than May 1st of the current tax year. The application shall include but is not limited to the following information:

1. The owners of record of the property;
2. property parcel number;
3. location of the property (address);
4. name of the applicant;
5. basis of the applicants' 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 the event that an application is not timely filed, an exemption may be granted by the Board of Equalization on an individual appeal basis.

E 021207 R 0057 P 0525
RANAE WILDE, DAGGETT COUNTY RECORDER
2003 FEB 4 1:57pm Fee No Fee 00
FOR DAGGETT COUNTY

- C. Except for those properties receiving a partial 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 Paragraph II A 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 determines that there is reason to believe that the property no longer qualifies for the residential exemption in accordance with Utah Code Ann. § 59-2-103.
- D. 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.
- E. 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.
- F. 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 Utah Code Annotated, Section 50-2-103.5(1), have been met, and whether the factors or objective evidence determinative of domicile, which are defined and outlined in Paragraph III below, 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 Utah Code Annotated, Section 50-2-103.5(1), and the Tax Commission rules, have been met, and that the factors or objective evidence supplied by the applicant are sufficient to make a determination of domicile.

III. Criteria.

- A. A primary residence means the location where domicile has been established. "Domicile" means 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 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. After domicile has been established, two 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. 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. 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.
- B. 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 Paragraph II above. 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 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. 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 Paragraph II A 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.

D. A partial exemption may be applied against the property taxes of qualifying nursing homes. In addition to the information required in Paragraph II A, the application, which must be filed every year, shall include the number of residents living at the facility and the number that have established their primary residence at the facility; the total square footage of the facility and the total non-residential square footage. The County Assessor may require additional information as necessary in order to determine the percentage of eligibility of the property for the exemption.

IV. Grandfather provision.

As of the effective date of this Ordinance, 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 of this ordinance, shall not be required to file the application required by Paragraph II A. However, should use change form primary residence, the property shall no longer be considered exempt and an application under the provision of this Ordinance shall be required.

V. Conflict.

In the event of any conflict between this Ordinance and State or Federal law, the provisions of the latter shall be controlling.

VI. Incorporation provision.

This Ordinance 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 Ann. §§ 59-2-102 and 59-2-103(1953, as amended); and, Property Tax Standard 2.13 Primary Residential Exemption.

VII Savings clause.

In the event one or more of the provisions of the Ordinance shall, for any reason, be held to be unenforceable or invalid in any respect under any applicable laws, such enforceability or invalidity shall not affect any other provision; and in such an event, this Ordinance shall be construed as if such unenforceable or invalid provision had never been contained herein.

VIII Recording.

This ordinance shall be recorded in the office of the Daggett County Recorder.

IX Effective Date.

This ordinance shall take effect immediately upon adoption and posting in at least three public places in Daggett County.

Approved and Adopted this 3rd day of February, 2003.

DAGGETT COUNTY COMMISSION

Sharon P. Walters

Chairman of the Daggett County Commission



ATTEST:

Vicky McKee
Vicky McKee, County Clerk

Voting	Yea	Nay
Commissioner Walters	<u> X </u>	<u> </u>
Commissioner Reed	<u> X </u>	<u> </u>
Commissioner Collett	<u> X </u>	<u> </u>