

(THIS REGULATION REPLACES THE [COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION](#))

FOR DISCUSSION PURPOSES ONLY

COMMUNITY ORGANIZATION PROPERTY TAX EXEMPTION REGULATION

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Part 5 Repeal and Coming into Force

- 26 Repeal
- 27 Coming into force

Incorporate a preamble to ensure easier applicability of the rules in COPTER to the various property types.

Principles

1 Property tax exemptions granted under this Regulation shall be guided by the following principles:

- (a) advancement of public benefit, in terms of charitable and benevolent purposes, community games, sports, athletics, recreation and educational purposes;
- (b) recognition of the volunteer contribution and fund raising component that most often characterizes not for profit status organizations;
- (c) advancement of youth programs and community care for the disadvantaged;
- (d) appropriate access to non-profit facilities and programs.

Definitions from original regulation, incorporates all the terms and definitions from section 13 (except "residents association") of original regulation. Some amendments to the definitions to provide clarity.

Interpretation

2(1) In this Regulation,

- (a) "Act" means the *Municipal Government Act*;
- (b) "arts" means theatre, literature, music, painting, sculpture or graphic arts and includes any other similar creative or interpretive activity;
- (c) "chamber of commerce" means a chamber of commerce that is a non-profit organization and is a member of the Alberta Chamber of Commerce;
- (d) "charitable or benevolent purpose" means the relief of poverty, the advancement of education, the advancement of religion or **any other purpose that is advantageous, favourable or helpful to the general public**;
- (e) "ethno-cultural association" means an organization formed for the purpose of serving the interests of a community defined in terms of the racial, cultural, ethnic, national or linguistic origins or interests of its members;

Provide clarity and direction for assessing whether the organization aligns with the principles of COPTER and provides value to the general public within the municipality to warrant property tax exemption.

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Provide clarity that the nature of the benefit provided would be used by individuals that require the benefit, not the public or community as a whole (for example, woman's emergency shelter).

Provide clarity on a minor fee charged by non-profits to users of their facilities or services.

Provide a general definition for the application of the regulation to prevent professional sports franchises from receiving a property tax exemption.

- (f) “general public” means pertaining to **some or all** individuals in a municipality, other than a group with limited membership or a group of business associates;
- (g) “linguistic organization” means an organization formed for the purpose of promoting the use of English or French in Alberta;
- (h) “minor fee” means an **entrance, rent or service fee that is no more than a comparable municipal or provincial fee for a similar property or service;**
- (i) “museum” means a facility that is established for the purpose of conserving, studying, interpreting, assembling and exhibiting, for the instruction and enjoyment of the general public, art, objects or specimens of educational and cultural value or historical, technological, anthropological, scientific or philosophical inventions, instruments, models or designs;
- (j) “professional sports franchise” means a team that
 - (i) is owned by a corporation with shareholders,
 - (ii) operates in a sports league that plays baseball, football, hockey, lacrosse or soccer, and
 - (iii) pays its athletes who play in the sports league for their services;
- (k) “retail commercial area” means property used to sell food, beverages, merchandise or services;
- (l) “sheltered workshop” means a facility designed to provide an occupation for and to promote the adjustment and rehabilitation of persons who would otherwise have difficulty obtaining employment because of physical, mental or developmental disabilities;
- (m) “taxation” means taxation under Division 2 of Part 10 of the Act;
- (n) “thrift shop” means a retail outlet operated for a charitable or benevolent purpose that sells donated clothing, appliances, furniture, household items and other items of value at a nominal cost to people in need.

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(2) For the purposes of the Act and this Regulation, “community association” means an organization where membership is voluntary, but restricted to residents of a specific area, and that is formed for the purpose of

- (a) enhancing the quality of life for residents of the area or enhancing the programs, public facilities or services provided to the residents of the area, or
- (b) providing non-profit sporting, educational, social, recreational or other activities to the residents of the area.

(3) For the purposes of this Regulation, “residents association” means a non-profit organization that requires membership for residential property owners in a specific development area, that secures its membership fees by a caveat or encumbrance on each residential property title and that is established for the purpose of

- (a) managing and maintaining the common property, facilities and amenities of the development area for the benefit of the residents of the development area,
- (b) enhancing the quality of life for residents of the development area or enhancing the programs, public facilities or services provided to the residents of the development area, or
- (c) providing non-profit sporting, educational, social, recreational or other activities to the residents of the development area.

(4) The definitions in sections 1 and 284 of the Act apply to this Regulation.

Part 1 General Rules

Application

3 This Regulation applies to taxation in 2018 and later years.

Non-profit organization

4 When section 362(1)(n)(i) to (v) of the Act or this Regulation requires property to be held by a non-profit organization, a community association or a residents association for the property to be exempt from taxation, the property is not exempt unless

Part 1 provides the general rules regarding property tax exemptions for property owned or held by non-profit organizations. All organizations must meet the conditions and qualifications of the General Rules to be considered for property tax exemption.

Formerly section 6.

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- (a) the organization or association is a society incorporated under the *Societies Act* or, in the case of a property referred to in section 362(1)(n)(v), a society as defined in the *Agricultural Societies Act*;
- (b) the organization or association is
 - (i) a corporation incorporated in any jurisdiction, or
 - (ii) any other entity established under a federal law or law of Alberta

that is prohibited, by the laws of the jurisdiction governing its formation or establishment, from distributing income or property to its shareholders or members during its existence.

This section did not change from the section in the current COPTER.

Holding property

5 When section 362(1)(n)(i) to (v) of the Act or this Regulation requires property to be held by a non-profit organization, a society or a community association for the property to be exempt from taxation, the property is not exempt unless

- (a) the organization, society or association is the owner of the property and the property is not subject to a lease, licence or permit, or
- (b) the organization, society or association holds the property under a lease, licence or permit.

Formerly section 3.

Part of a property

6 An exemption under section 362(1)(n)(i) to (v) of the Act or this Regulation applies only to the part of a property that qualifies for the exemption.

Formerly sections 10 and 15(1)(b). Non-profit organizations exemptions should be based on use of resources for those properties held by non-profit organizations.

Use of resources

7 Property held by a non-profit organization, a community association or a residents association is not exempt from taxation under section 362(1)(n)(i) to (v) of the Act or this Regulation unless

- (a) the funds of the non-profit organization, society or association are chiefly used for the purposes of the non-profit organization, society or association and not for the sole benefit of the directors and employees of the

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non-profit organization, society or residents association,
and

- (b) for property described
 - (i) in section 362(1)(n)(i) and (ii) of the Act, the resources of the non-profit organization, society or association that hold the property are devoted chiefly to the purposes of the non-profit organization, society or association, or
 - (ii) in section 362(1)(n)(iii) to (v) of the Act, the resources of the non-profit organization, society or association that holds the property are devoted chiefly to the charitable or benevolent purpose for which the property is used.

Formerly section 4.

Primary use of property

8(1) Property is not exempt from taxation under section 362(1)(n)(iii), (iv) or (v) of the Act or this Regulation unless the property is chiefly used for the purpose or use described in those provisions.

(2) For the purposes of this Regulation, a property is chiefly used for a purpose or use if the property is used for the specified purpose or use a majority of the time that the property is in use.

Formerly section 7, amended to ensure alignment with the Alberta Human Rights Act.

Restricted use of property

9(1) Property is not exempt from taxation under section 362(1)(n)(i) to (v) of the Act or this Regulation if, for more than 30% of the time that the property is in use, the use of the property is restricted on any basis, including a restriction based on

- (a) race, colour, ancestry, place of origin, religious beliefs, gender, gender identity, gender expression, sexual orientation, physical disability, mental disability, age, marital status, source of income or family status,
- (b) the ownership of property,
- (c) the requirement to pay fees of any kind, other than minor fees, or
- (d) the requirement to become a member of an organization.

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- (2) The requirement to become a member of an organization does not make the use of the property restricted if
- (a) membership in the organization is not restricted on any basis, other than the requirement to fill out an application and pay a minor membership fee, and
 - (b) membership occurs within a short period of time after any application or minor fee requirement is satisfied.
- (3) Not permitting an individual to use a property
- (a) for safety or liability reasons,
 - (b) for the protection of privacy,
 - (c) for the confidentiality of business, financial or personal information, or
 - (d) because the individual's use of the property would contravene a law

does not make the use of the property restricted.

- (4) Restricting the use of a property to one or more groups of individuals on a ground referred to in subsection (1)(a) does not make the property or any part of it restricted within the meaning of this section if there is a connection between those individuals and the nature of the service or benefit provided on the property.

Gaming and liquor licences

10(1) For the purposes of section 365(2) of the Act, property described in section 362(1)(n) of the Act and this Regulation in respect of which a bingo licence, casino licence, pull ticket licence, Class C liquor licence or a special event licence is issued under the *Gaming and Liquor Regulation* (AR 143/96) is exempt from taxation if the requirements of section 362(1)(n) and this Regulation in respect of the property are met.

- (2) Despite subsection (1), property in respect of which a bingo Class B facility licence or casino facility licence is issued is not exempt from taxation.

Retail commercial areas

11(1) A retail commercial area that is located within an exempt facility is exempt from taxation if

Formerly section 8. Amended to ensure Class B bingo facilities are not exempted and that Class A bingo facilities receive the tax exemption. Class A bingo facilities are run by non-profits through an umbrella non-profit bingo association.

Formerly section 18.

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- (a) the non-profit organization, society, community association or residents association that holds the exempt facility also holds and operates the retail commercial area, and
- (b) the net income from the retail commercial area is used
 - (i) to pay all or part of the operational or capital costs of the exempt facility, or
 - (ii) to pay all or part of the operational or capital costs of any other facility

that is held by the non-profit organization, society, community association or residents association and that is exempt from taxation under section 362(1)(n)(i) to (v) of the Act or this Regulation.

(2) For the purposes of subsection (1), “exempt facility” means a facility or part of a facility

- (a) that is held by a non-profit organization, a society as defined in the *Agricultural Societies Act* or a community association and that is exempt from taxation under section 362(1)(n)(i) to (v) of the Act or this Regulation, or
- (b) that is owned and held by a residents association and that is exempt from taxation under this Regulation.

Conditions for exemption

12(1) A municipality must grant a non-profit organization, a society as defined in the *Agricultural Societies Act*, a community association or a residents association an exemption from taxation in a taxation year in accordance with this Regulation if

- (a) the non-profit organization, society or association makes an application for an exemption to the municipality by the deadline set by the municipality and supplies the municipality with
 - (i) any information the municipality requires to determine if the organization, society or association meets the conditions for the exemption, and
 - (ii) a description of any retail commercial areas in the facility,

Formerly section 16. Amended to enable municipalities to set their own deadlines and permit exemptions to be implemented in current tax years.

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and

- (b) the facility on the property is one of the facilities described in sections 18 and 23 and the non-profit organization, society or association operates the facility on a non-profit basis.

(2) If a municipality grants an exemption to a non-profit organization, a society as defined in the *Agricultural Societies Act*, a community association or a residents association and later determines that the organization, society or association did not meet the conditions that applied to the organization, society or association for the exemption for all or part of the taxation year, the municipality may in the taxation year cancel the exemption for all or part of the taxation year, as the case may be, and require the organization, society or association to pay property tax in respect of the property for the period that the exemption is cancelled.

Formerly section 17.
Amended to indicate that if an application was waived, there is still a requirement to notify municipalities of any changes that may affect exemption status.

Waiver of application requirement

13(1) If a municipality has granted a non-profit organization, a society as defined in the *Agricultural Societies Act*, a community association or a residents association an exemption from taxation in respect of a property, the municipality may grant the non-profit organization, society or association an exemption from taxation in the following taxation year in respect of the same property without requiring the organization, society or association to apply for the exemption.

(2) A municipality that has waived an application requirement under subsection (1) in respect of a property for a taxation year may

- (a) require the non-profit organization, society or association that holds the property to provide any information that the organization, society or association may be required to provide if it was applying for an exemption, and
- (b) if the non-profit organization, society or association does not provide the information, cancel in that taxation year the exemption for all or part of that taxation year and require the organization, society or association to pay property tax in respect of the property for the period that the exemption is cancelled.

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(3) A municipality may not waive the application requirement under subsection (1) in respect of a property for more than 3 consecutive taxation years.

There are unique characteristics when dealing with non-residential vs residential vs residents association so the separation of these types of properties allows for specific conditions and qualifications that relate to their purpose while better aligning with the principles of COPTER. They have been separated into different Parts in this regulation.

Part sets out conditions and qualifications that non-residential property exemptions must meet. All provisions in this new Part are from various parts of the current regulation.

Part 2 Non-residential Property Exemptions

Definition

14 In this Part, “non-residential property” means non-residential property as defined in section 297(4)(b) of the Act.

Application of Part

15 This Part applies to exemptions for non-residential property under section 362(1)(n)(ii) to (v) of the Act and this Regulation.

Exemption

16(1) The following non-residential property is not exempt from taxation:

- (a) property to the extent that it is used in the operation of a professional sports franchise;
- (b) property that is used solely for community games, sports, athletics or recreation if, for the majority of the time the property is in use, services offered do not give priority to children, youth, senior citizens or the disadvantaged;
- (c) property in Calgary or Edmonton that is held by and used in connection with a community association if the association is not a member of the Federation of Calgary Communities or the Edmonton Federation of Community Leagues.

(2) Notwithstanding subsection (1)(c), property held by a community association referred to in that provision is exempt from taxation under section 362(1)(n)(v) of the Act where that community association was a member of the Federation of Calgary

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Communities or the Edmonton Federation of Community Leagues on January 1, 1999 but cancelled its membership after that date.

(3) Subsection (2) applies with respect to 2004 and subsequent years.

Restricted use

17(1) Non-residential property is not exempt if the property is restricted within the meaning of section 9.

(2) For the purposes of subsection (1), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

Exemption for other non-residential property

18(1) A non-profit organization that holds property on which any of the following facilities are operated may apply to the municipality within whose area the property is located for an exemption from taxation under section 362(1)(n) of the Act:

- (a) a facility used for the arts or a museum;
- (b) a program premises as defined in the *Child Care Licensing Regulation* (AR 143/2008);
- (c) a facility used by a linguistic organization if
 - (i) the use of the property by the general public is actively encouraged, and
 - (ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;
- (d) a facility used by an ethno-cultural association for sports, recreation or education or for charitable or benevolent purposes if
 - (i) the use of the property by the general public is actively encouraged, and
 - (ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;

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- (e) a non-residential facility in a municipality operated and used by an organization for a charitable or benevolent purpose where the majority of the organization's beneficiaries do not reside in the municipality;
- (f) a facility used as a thrift shop;
- (g) a facility used as a sheltered workshop;
- (h) a facility operated and used by a chamber of commerce;
- (i) a non-residential facility used for a charitable or benevolent purpose that is for the benefit of the general public if
 - (i) the charitable or benevolent purpose for which the facility is primarily used is a purpose that benefits the general public in the municipality in which the facility is located, and
 - (ii) the resources of the non-profit organization that holds the facility are devoted chiefly to the charitable or benevolent purpose for which the facility is used.

(2) Before granting an exemption for any of the facilities referred to in subsection (1) in respect of a property that is held by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

- (a) the organization will provide the municipality with a report by a time and in a manner specified in the agreement that sets out the information the municipality requires to determine if the organization met the conditions for the exemption during the taxation year, and
- (b) if the organization does not comply with the provisions referred to in clause (a), the organization will pay the municipality an amount equivalent to the property taxes that would be payable in respect of the property for the taxation year if the property was not exempt.

(3) Before granting an exemption for any of the facilities in subsection (1) in respect of a property that is owned by a non-profit organization, the municipality may require that an agreement

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between the organization and the municipality be in force that sets out that

- (a) no disposition of the property may be made without the approval of the municipality, and
- (b) if the organization is being wound-up and dissolved, the organization must, if required by the municipality, transfer the property to the municipality.

Part sets out conditions and qualifications that residential property exemptions must meet. All provisions in this new Part are from various parts of the current regulation.

Part 3 Residential Property Exemptions

Definition

19 In this Part, “residential property” means

- (a) residential property as defined in section 297(4)(c) of the Act, or
- (b) non-residential property as defined in section 297(4)(b) of the Act, but used for temporary living accommodation.

Application of Part

20 This Part applies to exemptions for residential property under section 362(1)(n)(iii) to (v) of the Act and this Regulation.

Subsidized units

21(1) An exemption for residential property applies only to the subsidized units of the property.

(2) Subsidized units may be regulated or unregulated.

(3) For the purposes of subsection (1),

- (a) regulated subsidized units are
 - (i) rental accommodation where the Government of Alberta sets the rent at a maximum amount, sets the rent at a percentage of household income or provides the facility with ongoing operating funds,
 - (ii) rent to own units where the Government of Alberta sets the rent at a percentage of income or sets the rent at a maximum amount, and

Provide clarity that the subsidized accommodation model in the current regulation aligns with the general principles and ensures that full market units within a mixed market housing development are subject to property tax for both regulated and non-regulated subsidized units.

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- (iii) accommodation where the Government of Alberta sets the mortgage payments as a percentage of income;
- (b) non-regulated subsidized units are
 - (i) rental accommodation where the rent is 75% or less of the market value,
 - (ii) rental accommodation where the rent is an offering by the person using the unit.
- (4) Residential property with non-regulated rent is not exempt from taxation unless
 - (a) the property provides subsidized accommodation and related services to children, senior citizens or the disadvantaged, and
 - (b) there is 24/7 onsite support for the care, safety and security of those using the services provided.

Restricted use

- 22(1)** Residential property is not exempt if the property is restricted within the meaning of section 9.
- (2) For the purposes of subsection (1), limiting the participation in activities held on a property to persons of a certain gender, gender identity, gender expression, sexual orientation, physical disability, mental disability or age does not make the use of the property restricted.

Exemption for other residential property

- 23(1)** A non-profit organization that holds property on which any of the following facilities are operated may apply to the municipality within whose area the property is located for an exemption from taxation under section 362(1)(n) of the Act:
 - (a) a facility used by an ethno-cultural association for charitable or benevolent purposes if
 - (i) the use of the property by the general public is actively encouraged, and

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- (ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;
 - (b) a facility used for a charitable or benevolent purpose that is for the benefit of the general public if
 - (i) the charitable or benevolent purpose for which the facility is primarily used is a purpose that benefits the general public in the municipality in which the facility is located, and
 - (ii) the resources of the non-profit organization that holds the facility are devoted chiefly to the charitable or benevolent purpose for which the facility is used.
- (2)** Before granting an exemption for any of the facilities in subsection (1) in respect of a property that is held by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that
- (a) the organization will provide the municipality with a report by a time and in a manner specified in the agreement that sets out the information the municipality requires to determine if the organization met the conditions for the exemption during the taxation year, and
 - (b) if the organization does not comply with the provisions referred to in clause (a), the organization will pay the municipality an amount equivalent to the property taxes that would be payable in respect of the property for the taxation year if the property was not exempt.
- (3)** Before granting an exemption for any of the facilities in subsection (1) in respect of a property that is owned by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that
- (a) no disposition of the property may be made without the approval of the municipality, and
 - (b) if the organization is being wound-up and dissolved, the organization must, if required by the municipality, transfer the property to the municipality.

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Part 4
Residents Association Exemptions

Part sets out conditions and qualifications that residents association exemptions must meet. To receive a property tax exemption, amenities will need to meet general rules including access by the general public.

Application of Part

24(1) This Part applies to property that is owned and held by and used in connection with a residents association that is exempt from taxation under section 362(1)(n) of the Act.

(2) Property owned and held by and used in connection with a residents association is exempt from taxation except

- (a) property to the extent that it is used in the operation of a professional sports franchise, and
- (b) property that is used solely for community games, sports, athletics or recreation if, for the majority of the time the property is in use, services offered do not give priority to children, youth, senior citizens or the disadvantaged.

Restricted access

25(1) Property owned and held by and used in connection with a residents association is not exempt if the property is restricted within the meaning of section 9.

(2) For the purposes of subsection (1), limiting the participation in activities held on a property to persons of a certain age does not make the use of the property restricted.

Part 5
Repeal and Coming into Force

Repeal

26 The *Community Organization Property Tax Exemption Regulation* (AR 281/98) is repealed.

Coming into force

27 This Regulation comes into force on January 1, 2018.

This regulation replaces the current Community Organization Property Tax Exemption Regulation.

Indicates when the regulation comes into force.