

RESOLUTION NO. 10-118, SERIES 2010

**RESOLUTION ADOPTING GUIDELINES FOR HOUSING THAT SERVES
SENIORS AND PERSONS WITH DISABILITIES**

WHEREAS, the Senior Citizen Commission and the Social Services Commission have been preparing guidelines for review of housing that serves seniors and persons with disabilities consistent with Policy HOUSING 1.8, Action b of the Housing Element; and

WHEREAS, housing that accommodates seniors and persons with disabilities will further support aging in place and will provide a range of housing types for the Davis community; and

WHEREAS, these guidelines can assist both developers and the City during the review of new projects and can promote better planned projects that accommodate a wider range of potential residents.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Davis that the attached Guidelines for Housing that Serves Seniors and Persons with Disabilities (Exhibit A) are approved.

PASSED AND ADOPTED by the City Council of the City of Davis this 27th day of July, 2010 by the following vote:

AYES: Greenwald, Krovoza, Souza, Swanson, Saylor

NOES: None



Don Saylor
Mayor

ATTEST:



Zoe S. Mirabile, CMC
City Clerk

Exhibit A

GUIDELINES FOR HOUSING THAT SERVES SENIORS AND PERSONS WITH DISABILITIES

(Proposed for Adoption: July 27, 2010)

Policy statement: The Senior Citizens Commission and Social Services Commission recognize the importance of integrated housing that provides a wide variety of housing choices for seniors and persons with disabilities, including housing types, designs and prices. The commissions support the expressed preference¹ by these groups for a variety of housing options that allow individuals to remain in their own homes, more commonly referred to as “aging-in-place.” Furthermore, the Commissions place importance on providing housing that can address the specific needs of seniors and persons with disabilities within the city’s general housing stock, while also recognizing the need for some specialized housing options.

While all of the items in these guidelines are valued by the community, it is not expected that projects will meet all of the individual guidelines. These guidelines will be applied in balance with other city requirements and goals.

A. General Housing Guidelines - to promote options within general housing projects for seniors and persons with disabilities.

- **ACCESSIBILITY/VISITABILITY – Continue to promote accessibility and visitability in future rental and ownership units.**
 - Make available the state’s universal design features checklist in newly and substantially rehabilitated single-family units where an owner is identified prior to city issuance of building permits. (The universal design features checklist includes optional features related to providing better access and usability in a housing unit, in accordance with Section 18.09 of the Davis City Municipal Code. These features include but are not limited to zero threshold entry, exterior and interior paths of travel, accessible half or full bathroom, and accessible common room on ground level.)
 - Ensure affordable rental projects include fully accessible and visitable units, maximizing opportunities for both through stacked flat units accessible by an elevator.
 - Design new housing units so that future modifications to increase unit accessibility, functionality, and visitability can be made in an economical and efficient manner that accommodates aging in place.

- **TRANSPORTATION – Continue to promote and encourage public transit as an affordable and environmentally-sound alternative to personal vehicles.**
 - Locate new ownership and rental housing projects conveniently near public transit access (e.g. bus stop) and make it accessible through a safe and easily navigated route.

¹ The term “expressed preference” refers to a June 16, 2008 Davis Senior Citizens Commission staff report, specifically stating the following reference: “AARP studies have shown a preference of seniors and individuals over 45 stating a preference to remain in their home, aging in place. A study that sampled 2,001 Americans over the age of 45 showed that approximately four out of five, or 83% of households surveyed stated a desire to remain in their current residence for “as long as possible.”

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- Assess transportation for new housing projects based on size. Projects should contribute to City public transit needs through payment of the appropriate development impact fees and any additional funds that may be negotiated via Development Agreement that could be utilized to assist with furthering City transit services and education (i.e. mobility training and frequency of transportation lines, such as in the evenings and on weekends).
 - Ensure adequate greenbelt and bike path connectivity.
 - Provide funding for electric/alternative fuel vehicles for shared resident use and the infrastructure to support it.
- **AFFORDABILITY** – Provide a variety of housing types and prices, including housing to meet city affordable housing requirements and housing options for middle income households, in an effort to provide housing opportunities for all income levels. Multi-family and single-family housing units in both rental and ownership types can provide opportunities for a variety of affordability needs when paired with the city’s affordability requirements.
 - **HOUSING OPTIONS** – Promote various housing models in new housing developments that could accommodate seniors and persons with disabilities. Housing types could include single-family homes, duplexes, half-plexes, condominiums, and townhomes with the objective of providing smaller units with balconies and/or smaller, easily maintained yards. Creative tenure options can also be explored, including “cluster housing,” cooperative housing, co-housing, and shared housing models. A variety of housing options should be provided for local seniors and persons with disabilities, including options that are within close proximity to the downtown and other destination areas within the city.

B. Guidelines for Housing Restricted to Seniors and/or Persons with Disabilities – to promote appropriate specialized housing for local seniors and persons with disabilities.

- **DETERMINE NEED** - Determination of housing type should be accomplished in response to the expressed desires of the community through local outreach and measurements of local demand.
 - **INDEPENDENT MARKET ANALYSIS** - Market analysis of the true community need for housing should be done by an independent consultant. This analysis is paid for by the project applicant and contracted by the City in order to ensure its independence. The analysis should speak to:
 - **Affordability** -in which the term is used in its broadest sense to include households of any income within the City of Davis and their existing cost burdens including consideration of expenses such as medical, caregiving, utilities, etc.

Exhibit A

- Marketability – a project-specific determination if there is a true local and current demand for the specific types of housing proposed.
- Preferences of Seniors and Persons with Disabilities –
For age-restricted² and age-qualified³ senior housing include:
 1. consideration of senior majority preference to remain in their own homes in Davis, known as aging-in-place.
 2. other senior preferences related to amenities and unit size/downsizing.
 For housing to serve persons with disabilities consider:
 1. housing features necessary for the person being served and whether space for a caregiver is necessary.
 2. preferences for independent living with support services available.
- Current Wait Lists – current waitlists for similar projects existing within Davis should be considered and this information should be included in the analysis.

In determining the local need for senior housing, age definitions and restrictions must be well defined (e.g. age 55 and over, or age 62 and over).

- **FISCAL IMPACT** – As part of the fiscal analysis of a proposed project that includes housing restricted to seniors and persons with disabilities, additional fiscal impacts to city services and county social services should be considered based on the population being served, including:
 - **CITY SERVICES:** Emergency Medical Response (ambulance, police, fire), Davis Community Transit, the Davis Senior Center, etc.
 - **SUPPORTIVE SOCIAL SERVICES:** Impacts on County & other social service providers (In-Home Supportive Services, Older Adult program, Adult Protective Services, etc) that provide services to seniors and persons with disabilities.
- **ENVIRONMENTAL IMPACT REPORT** – When developing an Environmental Impact Report (EIR) for a proposed project that includes housing for seniors and persons with disabilities, the EIR shall consider the additional needs (mobility, respiratory, etc.) of the groups being served.
- **AGE-RESTRICTED², AGE-QUALIFIED³, OR OTHER HOUSING TYPES THAT SERVE PERSONS WITH DISABILITIES** – The following types of housing models should be considered in the construction of housing for seniors and persons with disabilities:

² Age-restricted housing: Housing developments that require 100% of the units to be occupied by persons 62 years of age or older. (see Appendix)

³ Age-qualified housing: Housing developments that require a minimum of 80% of the units to be occupied by at least one person who is 55 years of age or older. (see Appendix)

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- **INDEPENDENT LIVING:** ownership and rental housing with a variety of housing sizes & options including, but not limited to: cottages, townhouses, mobile homes, independent living facilities, shared-housing options, and apartments that could include supportive services.
- **SUPPORTIVE HOUSING:** ownership and rental housing projects or units set-aside for specific ages or disabilities that include supportive services such as meals, laundry and other activities of daily living, but do not provide 24-hour residential care.
- **ASSISTED-LIVING FACILITY:** a residential care facility for the elderly or persons with disabilities who need assistance with some activities of daily living or prefer the availability of services and support staff.
- **CONTINUUM OF CARE FACILITY:** a range of housing types within a housing project that provides housing options for households with a range of assistance needs, from independent living to skilled nursing.
- **GROUP CARE HOMES:** a home or residential care facility that for a period exceeding 24 hours provides personal care, nursing care, or custodial care for 3 or more unrelated persons, but not including medical treatment for the acutely ill.
- **CRISIS/SHELTER FACILITY:** facilities with 24-hour support staff that assist in identifying permanent housing opportunities or support services for seniors and persons with disabilities.

Please Note: SKILLED NURSING is not considered housing but rather a medical facility regulated by state licensing. While it is not a housing type, the City will apply these guidelines to SKILLED NURSING units, recognizing that many of these goals would apply directly to this type of use as well.

- **SUPPORTIVE SERVICES** – The following types of support services should be considered in housing for seniors and persons with disabilities:
 - **ON-SITE SUPPORTIVE STAFF:** The need for medical, clinical, or psychological supportive staff and program planning and referral staff.
 - **OTHER SERVICES:** The need for meal services, health services, recreational activities, transit services and other basic life services being provided on-site.
 - **HOUSING OPTIONS FOR CAREGIVERS:** Provide housing options for caregivers on-site or close to housing units for seniors and persons with disabilities.
- **TRANSPORTATION** – Continue to promote and encourage public transit as an affordable and environmentally-sound alternative to personal vehicles.
 - Locate new ownership and rental housing projects conveniently near public transit access (e.g. bus stop) and make it accessible through a safe and easily navigated route. *Preference for distance to transit access to be within 200 feet.*

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- Assess transportation for new housing projects based on project size. Based on size, projects should contribute to City public transit needs by one of the following:
 - Provision of a shuttle service for project residents to use for daily living & activity needs (i.e. medical appointments, shopping, entertainment); or
 - Payment of the appropriate development impact fees and any additional funds negotiated via Development Agreement that could be utilized to enhance City transit services, particularly on weekends and holidays.
- Ensure adequate greenbelt and bike path connectivity.
- Provide funding for electric/alternative fuel vehicles for shared resident use and the infrastructure to support it.

- **LOCATION** – **Since seniors and persons with disabilities may not have personal transportation, the preferred location for any proposed housing for seniors and persons with disabilities should be close to the following:**
 - Public transit lines (Unitrans and/or Yolo Bus) if there is no on-site shuttle, preferably within 200 feet of a transit stop.
 - A neighborhood shopping center, especially a grocery store and pharmacy.
 - A medical facility that could provide general health services and prescriptions.
 - A variety of housing options should be provided for local seniors and persons with disabilities, including options that are within close proximity to the downtown and other destination areas within the city.

- **AMENITIES** – **Since seniors and persons with disabilities have a variety of personal needs, preferences, and expectations, consider inclusion of the following:**
 - Low maintenance open space/yards
 - Optional exterior/interior maintenance programs
 - Energy efficiency features in accordance with the City’s Green Building Ordinance
 - Sufficient heating and cooling (based on individual sensitivities)
 - Security and safety options
 - Accommodations for pets (dog run, etc.)
 - Community gardens
 - Community room and gathering space
 - Temporary housing opportunities for visiting family and friends
 - Health monitoring technologies or daily check-ins
 - On-site clinic, rehabilitation center, or wellness & exercise programs
 - Infrastructure to support electrical/alternative fuel vehicles for personal use.

Appendix:

- Protecting the Age-Restricted Status of Your Community
- Summary of the Federal Fair Housing Act and Senior Housing

Protecting the Age-Restricted Status of Your Community

Aging baby boomers and improved medical care, both having increased our life expectancy, combine to create a huge housing need for seniors. It is projected that by 2030 there will be almost 88 million people age 60 or older in the United States. To meet this growing need, builders are increasing the percentage of homes they build for the age-restricted or age-targeted markets. Age-targeted communities appeal to older buyers because of the style of the home and the amenities and conveniences provided, but do not restrict the age of residents. Age-restricted communities must meet the requirements of the Fair Housing Act of 1968.

In 1968, Congress enacted the Fair Housing Act to prevent discrimination in the housing market based on race, color, religion or national origin. In 1988, Congress amended this Act to include handicapped persons and familial status (one or more persons under the age of 18 who live with a parent or guardian) as protected classes. Certain exemptions were carved out to allow for age-restricted communities under the Housing For Older Persons Act of 1995. There are 2 types of age-restricted communities permitted by the Fair Housing Act. The first type of age-restricted community is where at least 80% of the units must be occupied (not owned) by at least one person 55 years of age or older. The second type allowed is a community where 100 % of the units are occupied by persons 62 years of age or older. Most of the age-restricted community associations fall into the 55 plus category.

Once an age-restricted community is turned over to the homeowners, it is the responsibility of the community leaders and the Community Manager to abide by the requirements of the Fair Housing Act relating to exemption for age-restricted communities.

The Housing for Older Persons Act of 1995 revised the definition of the original exemption contained in the Fair Housing Act. To qualify for exemption, a community must show that:

Exhibit A: Appendix

- It is intended and operated for occupancy by persons 55 years of age or older, and
- At least 80 percent of the units are occupied by at least one person who is 55 years of age or older; and
- It provides for age verification by reliable surveys and affidavits; and
- It has published and adheres to policies and procedures that demonstrate its intent to qualify for the exemption.

HOPA (Housing for Older Persons Act) eliminated the requirement of “significant facilities and services” previously required by the Amended Fair Housing Act to meet the 55-and-older exemption.

Following are some tips to help you protect the age-restricted status of your community:

- **80/20 Rule:** Be certain that for 80 percent of the units, one occupant is 55 or older. For new construction this applies after 25% of the units are occupied. Unoccupied units are not included in the total when calculating the 80%.
- **Occupancy vs. Ownership:** Keep in mind that the Act is interested in who is residing in the unit, not who owns the unit. If an owner is 55 or older but leases his unit to a resident who is not yet 55, that unit must be counted as a unit that does not meet the age requirement. If 20% of the units are already occupied by residents who are not 55 years of age, you lose your exemption if you permit a lease that increases that percentage beyond the maximum of 20%.
- **Intent to Comply:** Demonstrate that the community intends to operate as housing for people 55 years of age or older. This can be accomplished through the covenants and restrictions, resolutions outlining the procedure for verifying the age of residents, community rules and regulations, disclosures in marketing and resale materials, leasing provisions and signage indicating the name of the community and notice that it is a community for persons 55 and older. The use of phrases such as “adult living” or “adult community” is not consistent with the intent to operate as a 55 plus community.
- **Proof of Age Procedures:** It is essential for the builder to verify the ages of initial purchasers to comply with the intent of the governing documents. To comply with the HOPA restrictions, the community must develop reliable surveys and affidavits. Procedures must be adopted to ensure that at least one

Exhibit A: Appendix

occupant is at least 55 years of age or older for 80 percent of the units. Acceptable proof of age includes driver licenses, passports, immigration cards, military identification cards, birth certificates and other government documents that show a date of birth. If an occupant refuses to provide proof of age, an affidavit from a person, not in the household, who has personal knowledge that the resident is at least 55 years of age or older is acceptable. Verification of occupant ages must be completed every two years to ensure that your community is within the acceptable 80/20 required ratio.

- **Document and Local Restrictions:** You must be aware of all restrictions in your governing documents that would require a higher percentage of occupants to be 55 years of age or that prohibit leasing as another way to control the ages of occupants. Local municipalities may have requirements that may be more restrictive than the federal Acts and you would have to satisfy those requirements and not just meet the federal standards.

Failure to comply with the provisions of the Fair Housing Act and Housing for Older Persons Act will result in loss of protected status. Should this happen, the community could no longer legally restrict the sale of homes to persons under 55 years of age. For the seniors seeking not just a home, but a lifestyle, this is a critical aspect to ownership in a community originally intended for residents over 55 years of age. A simple plan will save the community and its residents from many emotional and legal hassles. An ounce of prevention is worth the proverbial pound of cure.

<http://www.associationtimes.com/articles2005/ProtectAgeRes0305.html>

What is an age qualified community? It's one where 80% of residents have to be over 55. They are known as retirement communities, active adult communities, or 55+ communities. Most of them are larger, planned communities that offer a great variety of activities, from social clubs to exercise facilities. They can be single-family, townhomes, manufactured homes, or have a mix of housing styles.

<http://www.agequalified.com/>

Attachment 2

Summary of the Federal Fair Housing Act and Senior Housing

The Fair Housing Act (FHA) protects all citizens from discrimination on the basis of race, color, national origin, religion, sex, handicap or familial status (families with children under the age of 18 living with parents or legal guardians; pregnant women and people trying to get custody of children under 18).

Senior Housing Exemption

Although the FHA was amended in 1988 to prohibit discrimination on the basis of disability and familial status, Congress intended to preserve housing specifically designed to meet the needs of senior citizens. Housing that meets the FHA definition of "housing for older persons" is **exempt** from the law's familial status requirements, provided that:

- HUD has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates intent to house persons who are 55 or older.

Therefore, housing that satisfies the legal definition of senior housing or housing for older persons described above, can legally exclude families with children.

<http://www.hud.gov/offices/fheo/seniors/index.cfm>