

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for
Fair Housing and Equal Opportunity**

24 CFR Part 100

[Docket No. FR-3502-F-08]

RIN 2529-AA66

**Housing for Older Persons; Defining
Significant Facilities and Services;
Amendments**

AGENCY: Office of the Assistant
Secretary for Fair Housing and Equal
Opportunity, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements section 919 of the Housing and Community Development Act of 1992. Section 919 requires the Secretary of HUD to issue "rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older persons' in such section." This final rule amends HUD's regulations governing "housing for older persons", to provide the definitions required by section 919.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Sara K. Pratt, Office of Investigations, Office of Fair Housing and Equal Opportunity, Room 5204, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500, telephone (202) 708-0836.

Hearing or speech-impaired individuals may call HUD's TDD number (202) 708-0113, or 1-800-877-8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

A. The March 14, 1995 Proposed Rule

On March 14, 1995 (60 FR 13840), HUD published a rule which proposed to implement section 919 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992).

The Fair Housing Act (Title VIII of the Civil Right Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601-19) (the Act) exempts "housing for older persons" from the prohibitions against discrimination because of familial status. Specifically, section 807(b)(2)(C) of the Act exempts housing intended and operated for occupancy by at least

one person 55 years of age or older per unit that satisfies certain criteria. The Act requires that the housing facility provide "significant facilities and services especially designed to meet the physical or social needs of older persons." HUD has implemented the "housing for older persons" exemption at 24 CFR part 100, subpart E.

Section 919 of the Housing and Community Development Act of 1992, requires the Secretary of HUD to issue rules further defining what are "significant facilities and services especially designed to meet the physical or social needs of older persons" required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term "housing for older persons." The March 14, 1995 rule proposed to amend subpart E to provide the definitions required by section 919. Specifically, the rule proposed to create a new section establishing the criteria for determining whether a facility or service is "significant" or "specifically designed to meet the physical or social needs of older persons."¹ This proposed section set forth a "menu" of facilities and services which a housing provider could choose to furnish. Another proposed section permitted communities selecting a requisite number and type of facilities and services from the "menu" to "self-certify" their compliance with the Act. The preamble to the March 14, 1995 proposed rule described in detail the amendments to 24 CFR part 100, subpart E.

The March 14, 1995 proposed rule was HUD's second attempt at implementing the requirements of section 919. An earlier rule, published on July 7, 1994 (59 FR 34902), also proposed to define "significant facilities and services." The July 7, 1994 proposed rule was of great interest to many seniors. By close of business on November 30, 1994, 15,219 comments had been received. Based on the written comments received on the proposed rule, and the comments received at five public meetings held across the country, HUD decided to make significant changes to the July 7, 1994 proposed rule.

¹The language of section 919 contains the word "especially": "... * * * rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term 'housing for older person' in such section." (emphasis added) This final rule uses the word "specifically" rather than the word "especially" to comply with congressional intent and reflect the actual language of section 807(b)(2) of the Fair Housing Act.

On December 12, 1994 (59 FR 64104), HUD announced it would not proceed to final rulemaking on the July 7, 1994 proposed rule. Instead, HUD issued the March 14, 1995 proposed rule, which addressed the issues raised by the commenters and solicited additional public comment.

B. Discussion of Public Comments on the March 14, 1995 Proposed Rule

The March 14, 1995 proposed rule was of significant interest to the public. By the expiration of the public comment period on May 15, 1995, 1,080 comments had been received. The majority of commenters expressed support for the proposed rule and urged its adoption without further change. Most of these commenters thanked HUD for taking time to listen to the concerns expressed by seniors over the July 7, 1995 proposed rule. An extremely popular form letter, which comprised approximately 61% of the total comments received, read:

I support the newly proposed rule on Significant Facilities and Services for Housing for Older Persons under the Fair Housing Act. I believe the needs of seniors in senior housing are fairly reflected and supported in the flexibility of the new amendments. The new regulations are simple, clear, and realistic. I appreciate HUD staff's willingness to travel across the country and listen compassionately to testimony. Thank you for responding positively to the valid concerns of seniors and community leaders expressed in the hearings.

As a result of the positive public response, HUD has made very few changes to the March 14, 1995 proposed rule. The following section of the preamble presents a summary of the significant issues raised by the public commenters on the proposed rule, and HUD's responses to these comments.

Preamble's Comparative Analysis Language

Comment. Several commenters were opposed to the language in the preamble to the proposed rule stating that in order to qualify as 55-or-over housing, "the evidence must show that the housing in question is clearly distinguished from the bulk of other housing (except for other older persons housing) in a particular area." (60 FR 13840, 13841). These commenters felt the language would make the proposed self-certification mechanism meaningless. The commenters interpreted this preamble language to mean that the existence of similar facilities and services at family communities in the area would deny 55-or-over status to a community which otherwise meets the

"menu" requirements of proposed § 100.306.

HUD Response. HUD agrees that this preamble language may be interpreted to negate the effectiveness of self-certification. Accordingly, HUD wishes to emphasize that it is the existence, in the aggregate, of at least ten requisite facilities and services from the "menu" set forth in § 100.306 which establishes a community as 55-or-over housing. This is true even if a particular facility or service is also locally available at other types of housing.

The Proposed Definition of "Occupied By" Was Unfair

Comment. The definition of "occupied by" set forth in proposed § 100.306(e) required that units be occupied by a person 55 years of age or over, not only at the time of the alleged violation, but "at least 60 days in the preceding year." Several commenters believed that this proposed definition would impose unfair burdens on 55-or-over communities in meeting the Act's 80 percent occupancy requirement. The commenters pointed out that it is administratively difficult to determine when property occupants come and go.

HUD Response. HUD concurs with these commenters. HUD has revised the definition of "occupied by" set forth in the March 14, 1995 proposed rule by eliminating the 60-day requirement. This final rule defines "occupied by" to mean actual occupancy of a unit by one or more persons over 55 years of age or older.

Necessity of Age Verification Procedures

Comment. Several commenters believed that the proposed rule contained contradictory statements regarding the requirement of age verification procedures. The preamble stated that HUD would "not require the use of age verification procedures." (60 FR 13840, 13842). However, proposed § 100.316, which discussed a provider's intent to provide housing for older persons, included age verification procedures in the non-exclusive list of factors HUD will utilize in determining the existence of such intent. One commenter went so far as to suggest that the final rule make age-verification procedures a requirement for establishing intent.

HUD Response. HUD has decided not to impose yet another federal obligation on senior communities by requiring the use of age verification procedures. The Act does not require that age verification procedures be used. Proposed § 100.316 merely stated that routine use of age verification

procedures is one way which a community may indicate that it intends to be "housing for older persons."

If a community decides to utilize age verification procedures, they must comply with court established requirements. Specifically, the procedures must be enforceable, objective, and consistently applied. Age-verification records must be accurately maintained by the housing provider. The age verification mechanism must provide for a review of current residents, as well as of potential new residents. Furthermore, the age verification procedures must require some form of independent proof to confirm the age of the residents. Driver's licenses or copies of birth certificates are two acceptable methods to confirm age.

In sum, lease applications or other preliminary resident documentation should include a request for age verification data. Housing providers should make it clear to potential residents that the request is made to ensure conformity with the community's policy of maintaining the reliable records necessary for qualifying for the "housing for older persons" exemption. Age verification data must be confirmed through objective reliable means that at least one person who will be occupying the property will be 55 years of age or older.

Mandatory Continuation of Terminated Volunteer Services

Comment. Several senior commenters, while supporting the proposed rule's authorization of the use of off-site or volunteer services, expressed worry that housing providers might not take steps to assure the continued availability of these services. These seniors wish housing providers to be required to locate an alternate means of providing the volunteer services, if for some reason the current services are discontinued.

HUD Response. The March 14, 1995 proposed rule, and this final rule, make the housing provider ultimately responsible for providing the significant facilities and services. If volunteer provided facilities and services are discontinued, the housing provider is responsible for ensuring that replacement facilities or services are provided, or the community will no longer qualify for the exemption. HUD does not agree with the commenters that it should require housing providers to continue specific volunteer services which have been terminated. The particular volunteer facilities and services to be provided are best

determined by the housing provider and the residents.

Definition of Housing Provider Not Sufficiently Broad

Comment. Two commenters wrote to express their belief that the proposed rule's definition of the term "housing provider" was not broad enough to cover unincorporated communities comprised of individual homeowners.

HUD Response. The definition of "housing provider" set forth in the March 14, 1995 proposed rule was intended to cover unincorporated communities. This final rule contains a revised definition which clarifies that single family communities may qualify for the exemption through community groups which effectively represent the interests of the residents. Specifically, the revised definition of "housing provider" reads: "The term housing provider includes any person or entity which represents the property owners of a community in their housing interests, including homeowners or resident associations, whether or not there is common ownership or operation of any portion of a community."

Revision of Impracticability Provisions

Comment. Several commenters believed the impracticability provisions set forth in proposed § 100.310 should be revised. The commenters objected to the statement in proposed § 100.310(b)(1) that "[d]emonstrating that . . . services and facilities are expensive to provide is not alone sufficient to demonstrate" impracticability. The commenters believed that this provision unfairly implied that "true" senior communities are those that can afford to have a lot of amenities.

HUD Response. HUD does not agree with the commenters. The "menu" established by § 100.306(d) and the provisions of § 100.306(e), which permit volunteers to provide facilities and services, effectively address the issue of cost, and will enable properties without large financial resources to qualify for the exemption. It has never been HUD's intention to require communities to provide expensive amenities in order to meet the "significant facilities and services" requirement. Moreover, § 100.310(b)(4) lists the income range of the residents as a factor in determining impracticability, allowing evidence of lack of affordability of facilities or services to be considered as part of an impracticability review.

Proposed Rule's Impact on Small Entities

Comment. Two commenters believed the March 14, 1995 proposed rule reflected a harsh attitude toward small 55-or-over communities. Specifically, the commenters felt that the "menu" set forth in proposed § 100.306 demonstrated a bias toward larger parks with clubhouses and resident organizations. One of the commenters suggested that communities with fewer than "40 or 50 spaces" be exempted from the requirements of the final rule.

HUD Response. HUD does not believe that any special exemptions are required for small 55-or-over communities. The "menu" set forth in § 100.306 is sufficiently broad to ensure that small communities may satisfy the "significant facilities and services" requirement without undue burden or expense. HUD prepared the list of "menu" items by reviewing suggestions made by the public commenters to the July 7, 1994 proposed rule, including the commenters at the five public hearings, as well as by carefully reviewing court decisions dealing with this issue. The "menu" is adequately diverse to cover all types of senior properties.

Proposed Rule Imposed an "Accessibility" Requirement

Comment. One of the reasons for the strong opposition to the July 7, 1994 proposed rule was the belief among seniors that it erroneously depicted all seniors as physically frail. In developing the March 14, 1995 proposed rule, HUD wished to correct this impression. Accordingly, the preamble to the proposed rule stated that a facility or service does not need to be "accessible to the disabled in order to be classified as 'significant' or 'specifically designed to meet the physical or social needs of older persons.'" (60 FR 13840, 13841). However, many senior commenters believed that the rule imposed an accessibility requirement.

Specifically, the commenters objected to the preamble language stating that "[t]he Department believes that the Act imposes a strict burden upon a person claiming the exemption to provide credible and objective evidence showing that the facilities and services offered by the housing provider were designed, constructed or adapted to meet the particularized needs of older persons." (60 FR 13840, 13841). The commenters believed that the requirement that housing providers select two items from category 11, Health/Safety Needs, from the "menu" set forth in proposed § 100.306, was further proof of an

accessibility criterion for qualification as 55-or-over housing.

HUD Response. The commenters misinterpret the language of the preamble and the proposed rule. It is the existence of the requisite number and type of "menu" items, in the aggregate, which qualifies a community for the "housing for older persons" exemption. Elimination of category 11 of the "menu" would unfairly discriminate against communities which have chosen to provide any of the health/safety related items listed in this category. Inclusion of such a category in the "menu" does not imply that all seniors have difficulty with mobility. It simply reflects the fact that some residents of 55-or-over communities may desire the provision of several category 11 items to facilitate their use and enjoyment of the property.

Proposed § 100.306(f) Undermined Self-Certification

Comment. Proposed § 100.306(f) listed the criteria by which HUD will determine if, in the aggregate, the facilities and services provided by a housing provider are "significant." Several commenters objected to this provision, claiming that a housing provider's self-certification would be undermined by the uncertainty of its compliance with proposed § 100.306(f).

HUD Response. HUD does not believe that § 100.306(f) subverts the self-certification procedures set forth in § 100.307. Rather, the criteria listed in § 100.306(f) provide assurance that housing providers will not claim that they are eligible for the exemption based on facilities or services which are virtually non-existent, non-functional or unused. Paragraph (f) of § 100.306 is necessary to assure that the facilities and services are truly available in a meaningful way to residents.

Self-Certification Should Not Be Made Under Penalty of Perjury

Comment. Proposed § 100.307(e) stated that a housing provider shall sign a self-certification notice "under penalty of perjury of the laws of the United States." Several commenters believed that the imposition of civil penalties was sufficient to penalize housing providers posting false self-certification notices.

HUD Response. HUD does not agree that § 100.307(e) imposes an unjust sanction on housing providers who falsify their self-certification notices. Absent evidence indicating that the housing provider has not met the "menu" requirements of § 100.306(c), a housing provider who chooses to self-certify will be deemed by HUD to be in

compliance with the requirements of the Act. Given the force of a posted self-certification notice, HUD believes it is justified in requiring the high measure of certainty provided by the imposition of perjury sanctions. Paragraph (f) of § 100.307 obligates a housing provider who has posted a self-certification notice to ensure that the listed facilities and services are indeed available.

The Self-Certification Posting Requirements Should Be Revised

Comment. One commenter believed the posting requirements for the self-certification notice should be clarified. Proposed § 100.307(e) required that a copy of the self-certification notice be posted "in every public or common area where housing transactions are conducted." The commenter felt that some housing providers might have difficulty complying with this requirement. For example, in the case of homeowner associations where all developer sales have been completed, the only sales are by individuals, not by the association or a developer. In these instances, there are no common areas where "housing transactions" occur.

HUD Response. HUD has not revised § 100.307(e). Paragraph (e) of § 100.307 simply requires that the self-certification notice be posted in every area where housing transactions are conducted. In some instances, this may require that the notice be posted in the unit itself, or at the real estate office handling the listing of the property.

Revision of the Self-Certification Notice

Comment. One commenter suggested several revisions to the posted self-certification notice in order to make it more comprehensible. For example, the commenter suggested that a larger typeface notice might be easier to read for those seniors requiring eye-glasses.

HUD Response. HUD will consider formatting suggestions from the public before printing copies of the self-certification notice for distribution. However, nothing prevents a housing provider from enlarging the self-certification notice and posting the larger version, or otherwise making it available to residents and the public in alternative formats.

Proposed § 100.307(f) Undermined Self-Certification

Comment. Many commenters objected to proposed § 100.307(f), which stated that self-certification notices will not be considered "conclusive evidence of eligibility for the housing for older persons exemption." To many commenters this provision eliminated the main reason for self-certification,

which is to relieve the anxiety older persons feel that they may be violating the law. One of the commenters suggested slightly revising proposed § 100.307(f) so as to make the provision less offensive to seniors. According to this commenter, the "not conclusive" phrase should be replaced by a reiteration of HUD's authority to investigate fair housing complaints.

Other commenters urged the elimination of the "not conclusive" phrase and the insertion of new language strengthening the effect of the self-certification notice. Specifically, these commenters believed the self-certification notice should shift the burden of proof to complainants during fair housing investigations regarding 55-or-over status.

HUD Response. HUD agrees with the commenters that the "not conclusive" phrase may be misinterpreted by the public so as to undermine the certainty provided by a self-certification notice. Accordingly, HUD has revised § 100.307(f) by removing the "not conclusive" phrase and replacing it with the statement that "the posting of a self-certification notice will not preclude the Department from investigating a complaint of alleged housing discrimination where there is evidence that the housing provider fails to comply with the self-certification."

HUD wishes to emphasize that the purpose of the self-certification mechanism is to provide certainty to 55-or-over communities, not to insulate them from legitimate HUD fair housing investigations. HUD may receive information which suggests that a community does not meet the Act's 80 percent occupancy requirements, or that the self-certification notice is incorrect. In these situations, HUD's investigation will focus initially on the housing provider's own assurances, through the posted self-certification notice, that the requisite facilities and services are provided. If the significant facilities and services listed in the self-certification notice are actually provided and serving the community, the housing provider should not anticipate any difficulties in qualifying for that portion of the exemption. Additionally, if the provider furnishes facilities and services which are not listed on the self-certification notice (or if no self-certification notice is posted) HUD will still consider all available evidence regarding what facilities and services were available at the time of the alleged discriminatory incident.

HUD wishes to emphasize that nothing in this regulation changes the requirement, set forth by the courts and administrative law judges, that in a

judicial or administrative proceeding, the housing provider bears the burden of ultimately proving its eligibility for any exemption under the Act by a preponderance of the evidence.

Proposed Exemptions to 80% Occupancy Requirement Exceed Legal Authority

Comment. Section 807(b)(2)(C)(ii) of the Act, which HUD is implementing in § 100.315, requires "that at least 80 percent of the units are occupied by at least one person 55 years or older per unit." Paragraph (b)(2) of proposed § 100.315 permitted housing with unoccupied units to meet the 80 percent occupancy test, so long as "at least 80 percent of the occupied units [were] occupied by at least one person 55 years of age or over." One commenter believed this provision contradicted the explicit language of the Act and suggested that providers claiming the exemption based on § 100.315(b)(2) be required to reserve all units for occupancy by a person 55 years of age or older.

Furthermore, paragraph (b)(4) of proposed § 100.315(b)(4) permitted housing with an insufficient percentage of units occupied by older persons to meet the 80 percent test, so long as the housing "reserve[d] all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80 percent of the units [were] occupied" by older persons. Another commenter objected to this provision, as well as to proposed § 100.315(b)(2), on the grounds that the Act's 80 percent occupancy requirements should be strictly construed. The commenter believed that any exceptions to the 80 percent occupancy requirements set forth in the Act were meant by Congress to apply solely to housing occupied before the Act's effective date.

HUD Response. The Act provides that a property "shall not fail to meet the requirements for housing for older persons by reason of * * * (B) unoccupied units. * * *'" (42 U.S.C. 3607). HUD believes it is justified in interpreting the Act to allow a community which, although it does not currently meet the 80 percent occupancy requirement, reserves all unoccupied units for occupancy by a person 55 years of age or older. This may be the only way for a community which believed that it was ineligible for "housing for older persons" status, and which has therefore permitted occupancy by families, to qualify for the exemption. There is no support for the commenter's assertion that this provision of the Act is limited to situations occurring before the Act's

effective date. HUD believes that housing which seeks to qualify as "housing for older persons" should be able to do so, even if its occupied units do not meet the 80 percent occupancy test. Furthermore, HUD believes such housing should be protected against claims of unlawful discrimination during the qualification process, so long as it provides significant facilities and services, has the requisite intent, and has reserved all unoccupied units for at least one resident 55 years of age or older.

Proposed § 100.310(b)(7) Violated Statutory Authority

Comment. Section 100.310 permitted the granting of a waiver to housing providers in cases where it would be impracticable to furnish "significant facilities and services." Proposed § 100.310(a) required that the persons seeking a waiver also demonstrate "that such housing is necessary to provide important housing opportunities for older persons." Proposed § 100.310(b)(7) would have accorded residents' preferences a weight in the waiver determination. If "90 percent of the residents of the housing" had stated that a facility or service was "not necessary or desired", this certification would have been relevant as to whether the provider could have claimed an impracticability waiver to the Act's requirements. One commenter felt proposed § 100.310(b)(7) would have exceeded HUD's authority under the Act. The commenter pointed out that the proposed rule would have permitted residents to legitimize discriminatory preferences.

HUD Response: HUD agrees with the commenter. Upon further analysis, HUD has determined that individual residents should not be authorized by regulation to waive the rights of future residents, or the rights of families with children, by voting on the necessity or desirability of a facility or service. Accordingly, proposed § 100.310(b)(7) has been eliminated.

Items Listed in Proposed § 100.306 Were Not Significant

Comment. Many of the commenters believed that the "menu" set forth in proposed § 100.306 did not list facilities and services that were "significant" or "specifically designed for the physical or social needs of older persons." One of these commenters believed that with almost no effort, most properties could qualify under the March 14, 1995 proposed rule. Since the commenters believed that the requirements of § 100.306 could be easily met, they feared that unscrupulous housing

providers would utilize the rule to disguise their unlawfully discriminatory policies against families with children. These commenters also believed that proposed § 100.306 could possibly be in violation of existing case law, which states that the "significant facilities and services" requirement is not met by merely adding minor amenities to a traditional development.

HUD Response. The commenters erroneously focus on the individual items listed in § 100.306(d). It is the existence, in the aggregate, of the requisite number and type of "menu" items that satisfies the "significant facilities and services" requirement. However, in the development of this final rule, HUD made the determination that some minor revisions to the list of "menu" items were necessary. This final rule includes these changes.

Self-Certification May Violate Existing Law

Comment. Proposed § 100.307 permitted housing providers which met the requirements of proposed § 100.306 to self-certify their compliance with the Act's requirements. Several commenters expressed doubts as to the legality of this self-certification mechanism. Some commenters believed proposed § 100.307 established a licensing procedure unauthorized by Congress.

These commenters also noted an apparent inconsistency in the proposed rule's language regarding self-certification. The language of proposed § 100.307 suggested a limited effect for the self-certification, namely the authorization of "the publication of advertisements, notices or the making of other statements" necessary to establish the property as 55-or-over housing. The preamble, on the other hand, indicated greater significance for the self-certification, stating that "absent evidence to the contrary, the Department will assume that those communities which have chosen to self-certify are in compliance with the Act's requirements." (60 FR 13840, 13841). The commenters feared that this inconsistency meant HUD intended to shift the burden of proof to complainants to show that the housing met the exemption requirements. In such a case, the preamble language would have exceeded statutory authority, the Act's legislative history, and case-law.

These commenters believed that as an alternative to self-certification, HUD should certify the 55-or-over housing. The commenters believed that only HUD or substantially equivalent state agencies could provide meaningful certification of a community's exempt

status. These commenters suggested that at the very least HUD require periodic updates of the self-certification notices.

HUD Response. HUD has not revised the proposed rule as a result of these comments. The rule's self-certification mechanism allows communities to determine with certainty whether they comply with the "significant facilities and services" requirement. The posting of a self-certification notice merely identifies for the public those facilities and services on which the provider bases its claim of eligibility for that portion of the "housing for older persons" exemption. Self-certification is not, nor was it intended to be, a de-facto licensing procedure.

There was no inconsistency between the language of the proposed rule and the preamble. Absent evidence that the posted self-certification notice is incorrect, HUD will assume that housing providers which have chosen to self-certify are in compliance with the Act. However, HUD will still be required to conduct an investigation when it is provided with information which indicates that the assertions in the self-certification are incorrect or that the property otherwise does not qualify for the "housing for older persons" exemption. This rule does not modify in any way the fact that housing providers bear the burden of proving their compliance with the Act's requirements during a judicial or administrative enforcement proceeding.

HUD rejects the commenters' suggestion that HUD certify each property seeking to qualify as housing for older persons. In addition to the fact that such a procedure would be intrusive and involve HUD in the day to day operations of non-federal housing, HUD neither has the resources nor the desire to inspect the many properties which might claim the exemption. Moreover, a HUD-certification procedure might be construed as a de-facto licensing mechanism, which is beyond the scope of HUD's authority under the Act.

While this final rule does not require periodic reviews of self-certification notices, HUD agrees that it is both sensible and necessary for housing providers to periodically update such notices. These reviews would prevent the filing of fair housing complaints from persons claiming the assertions in the posted self-certification notice are false.

Self-Certification Is Misleading and Will Deter Legitimate Complaints

Comment. Some commenters noted that the posting of a self-certification notice would not preclude a legal

challenge to the housing community's status as 55-or-over housing. However, these commenters believed that the language of proposed § 100.307 would lead some communities to believe that self-certification immunizes them from such complaints. The commenters felt that the proposed rule's language was misleading and could fuel anti-government sentiment. These commenters felt that self-certification was "bad public policy."

The commenters found another possibility for confusion in the language of proposed § 100.307(f), which permitted housing providers which have self-certified to advertise, post notices, or make other statements "evidencing the operation of the property in question . . . as excluding families with children as described in section 807(b)(2) of the Act." The commenters pointed out that this language might be incorrectly interpreted to suggest that the exclusion of children is required by the "housing for older persons" exemption.

Furthermore, these commenters feared that a prominently displayed, "official looking" self-certification notice would deter families from pursuing legitimate fair housing complaints.

HUD Response. The easy answer to the commenters' "self certification is bad public policy" argument is the fact that the vast majority of the commenters applauded HUD's inclusion of a self-certification mechanism in the March 14, 1995 proposed rule. HUD rejects the notion that self-certification will lead housing providers to believe they are "immunized" from legitimate fair housing complaints.

HUD reiterates that the purpose of the self-certification provisions is to permit communities to ascertain with confidence whether they comply with the Act's requirements, not to insulate them from HUD investigations of legitimate complaints. A posted self-certification notice is only as good as the facts which underlie it. It is necessary for 55-or-over communities to periodically update the self-certification notices in order for them to have the desired certainty in case a complaint is filed.

The commenters were correct in asserting that the Act does not require the exclusion of children from housing for older persons. Additionally, the Act does not mandate that 100 percent of senior-housing residents be 55 years of age or older. HUD wishes to emphasize that a qualified 55-or-over community may permit the remaining 20 percent of units to be occupied by persons under 55; allow some small number of families

with children to reside in the property; and allow some number of units to be occupied by surviving spouses, or heirs of a senior resident. However, the general intent to be classified as "housing for older persons" must be continued, as should careful record keeping, to ensure that the community does not drop below the 80 percent occupancy requirement and to ensure that the requisite intent to be housing for older persons is indicated.

Self-Certification Has Federalism Implications

Comment. One commenter wrote that the easily met requirements of proposed § 100.306 posed a danger to individual property rights. The commenter believed that the proposed rule would allow some, but not all, of the homeowners of a tract or development, without any common interests or privity, to organize an association and restrict free alienation of the property of the nonmembers.

HUD Response. HUD does not agree with the commenter. The courts have upheld the constitutionality of the "housing for senior persons" exemption against claims that it amounted to a deprivation of property rights. See *Senior Civil Liberties Association v. Kemp*, 965 F.2d 1030 (11th Cir. 1992). This final rule merely authorizes a housing provider to undertake certain actions in order to qualify for the exemption. The rule's self-certification provision has no more impact on Federalism issues than does the exemption itself.

II. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development Room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

B. Executive Order 12866

This final rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Any changes made in this final rule as a result of that review are clearly

identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410-0500.

C. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication and, by approving it, certifies that the final rule will not have a significant impact on a substantial number of small entities.

D. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this final rule does not have potential for significant impact on family-formation, maintenance, and general well-being, and, thus is not subject to review under the Order.

E. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this final rule will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal government, or on the distribution of power and responsibilities among the various levels of government. The Fair Housing Act, and section 919 of the Housing and Community Development Act of 1992 direct HUD to provide further guidance on the meaning of significant facilities and services so that States, local governments, and housing providers will have a better understanding of what housing is exempt from the Fair Housing Act's prohibition against discrimination on the basis of familial status.

F. Regulatory Agenda

This final rule was listed as sequence number 1504 in the Department's Semiannual Regulatory Agenda, published on May 8, 1995 (60 FR 23368, 23373) under Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 100

Aged, Fair Housing, Individuals with disabilities, Mortgages, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 100 is amended as follows:

PART 100—DISCRIMINATORY CONDUCT UNDER THE FAIR HOUSING ACT

1. The authority citation for part 100 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 3600-3620.

Subpart E—Housing for Older Persons

2. In subpart E, § 100.304 is revised, and new §§ 100.305, 100.306, 100.307, 100.310, 100.315 and 100.316 are added, to read as follows:

§ 100.304 55 or over housing.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that, at the time of an alleged violation of the Act, the housing satisfies the requirements of:

- (1) Sections 100.304, 100.305, 100.306, 100.315 and 100.316; or
- (2) Sections 100.310, 100.315 and 100.316.

(b) With reference to complaints filed pursuant to the Act, this means that the person or entity claiming the exemption must affirmatively prove by a preponderance of evidence as of the date of an alleged violation of the Act that the housing meets the requirements of paragraph (a) of this section.

(c) For purposes of this part, *older persons* means persons 55 years of age or older.

(d) For purposes of this part, *housing provider* means:

- (1) The owner or manager of a housing facility; or
- (2) The owner or manager of the common and public use areas of a housing facility, where the dwelling units are individually owned.
- (3) The term "housing provider" may include any person or entity which operates a housing facility. The term "housing provider" includes any person or entity which represents the property owners of a community in their housing interests, including homeowners or resident associations, whether or not there is common ownership or operation of any portion of a community.

(e) For purposes of this part, *occupied by* means one or more persons over the age of 55 actually occupying a unit at the time of an alleged violation of the Act.

(f) With reference to self-certifications of compliance with the provisions of this part, the housing provider claiming the exemption for 55 and older housing may demonstrate publicly, by the posting of one of the notices described in § 100.307, compliance with the provisions of this part.

§ 100.305 Criteria.

(a) The provisions regarding familial status in this part shall not apply to

housing intended and operated for occupancy by at least one person 55 years of age or older per unit, pursuant to this part.

(b) The housing shall have significant facilities and services specifically designed to meet the physical or social needs of older persons as described in § 100.306.

(c) At least 80 percent of the units in the housing shall be occupied by at least one person who is at least 55 years of age or older as described in § 100.315.

(d) The housing provider shall publish and adhere to policies and procedures which demonstrate an intent by the housing provider to provide housing for older persons as described in § 100.316. The publication of policies and procedures describing an intent to provide housing as "adult housing" shall not suffice for this purpose.

§ 100.306 Significant facilities and services specifically designed for older persons.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, *provided that* the person or entity asserting the exemption affirmatively demonstrates through credible and objective evidence that facilities and services specifically designed to meet the needs of older persons are "significant". Significant facilities and services which are specifically designed for older persons are those which actually or predictably benefit the health, safety, social, educational or leisure needs of older persons.

(b) The facilities and services provided by a housing provider are significant and specifically designed to meet the housing needs of older persons when the housing provider meets the criteria found in paragraphs (c), (d), and (e) of this section and complies with the criteria found in paragraph (f) of this section.

(c) A housing provider provides significant facilities and services if it makes available, directly or indirectly, at least 2 facilities or services in at least five categories described in paragraph (d) of this section, including at least 2 of the facilities described in paragraph (d)(10) of this section (category 10) or in paragraph (d)(11) of this section (category 11).

(d) Facilities and services which may be considered for purposes of qualifying for the 55 and older housing exemption are the following:

(1) Category #1 (Social Needs)

Social and Recreational Services provided on a regular, organized basis:

- softball, golf, shuffleboard tournaments, lawn bowling, billiards or similar team activity
- bridge club, card games, organized chess or checkers
- exercise classes— low-impact, stretching, t'ai-chi, swim-therapy
- bingo
- fellowship meetings
- musical theater group
- dances, square dancing, polka, ballroom dancing,
- at least weekly potluck dinners, breakfasts, luncheons, or coffees
- coordinated holiday parties for residents
- Lions club, clubs or classes for sewing, needlepoint, art, gardening, music, books, golf, bowling, photography, travel, etc.
- cooking classes
- crafts classes: ceramics, macrame, woodworking, jewelry, quilting, painting
- field trips—bowling, sightseeing, concerts, plays, hiking, shopping outlets
- fashion shows
- on-site movies or other theatrical events
- liaison/coordination with activities at community-wide senior centers and activities
- emergency meal service for residents who are ill or in need
- organized travel opportunities

(2) Category #2 (Educational Needs)

Continuing education activities:

- at least monthly presentations on subjects such as health care, nutrition, stress management, medicare, insurance, social security, tax preparation, vacation planning, gardening, crime prevention
- consumer protection education
- regularly offered CPR classes
- regularly offered language study classes
- regularly offered videotapes on health care
- courses available at local educational institutions
- library with magazines designed for older persons and material available in large print

(3) Category #3 (Educational Needs)

Information and counseling services:

- providing new residents with package of information about local services of interest to seniors
- bulletin board for exchange of information or services
- printed resident directory provided to each resident

- free information on cable TV programs for residents—internal or external support groups for residents
- seminars on the aging process
- seminars on estate planning, dealing with death or other issues affecting older persons
- on-site legal services
- informational sessions on fire safety, mental health issues, political and environmental issues
- seminars on governmental benefits programs

(4) Category #4 (Physical Needs)

Homemaker services:

- employees assist with housework or yardwork
- organized committee of residents to perform light household tasks or yard work for those who cannot do them themselves
- referrals to housecleaning services
- bill-paying services
- pet care/pet therapy services
- minor home repair service
- tool loan service

(5) Category #5 (Safety Needs)

Outside maintenance/health and safety services:

- on-staff medical personnel with first aid/CPR training
- on-staff repair, maintenance and painting services
- meals on wheels
- snow shoveling and plowing
- system for referrals to doctors or other health care professionals
- regular system to contact residents who are house-bound to make sure they are o.k.
- system for referrals for transportation services for residents
- referrals to income tax preparers
- referrals to repair and maintenance services
- security guards/patrols, organizing neighborhood or block watch
- organizing committee of residents to do household repairs and yard work for those who cannot do them themselves
- exterior lighting and alarm systems monitoring
- vacation house watch
- limited access to property by controlled access gate or similar system

(6) Category #6 (Health Needs)

Emergency and preventative health care programs:

- meetings about nutrition, back care, breast cancer/self-examination/mammogram, prostate cancer screening, vision care, or other health care topics (see continuing education)

- monthly blood pressure checks
- annual flu vaccine shots available
- periodic vision or hearing tests
- staff or volunteers pick up food from social services for mobility impaired seniors
- organizing committee or buddy system of residents to do errands for people who become ill and/or to stay with sick persons while their spouses do errands
- emergency telephone network, staff or volunteers monitor people who have serious medical problems
- doctor/medical facilities located within two miles of facility
- health care equipment pool for resident use

(7) Category #7 (Social/Health Needs)

Congregate dining:

- available congregate dining for at least one meal each day
- sit-down meal service
- special menus for dietary needs
- activities conducted in conjunction with congregate dining

(8) Category #8 (Transportation)

Transportation to facilitate access to social services:

- transportation provided to doctors' offices, shopping, religious services, outside social or recreational activities
- public bus stop or train station within walking distance and bus schedules and maps available
- organized system to provide transportation for residents who cannot drive
- sign-up board for shared transportation needs
- shared ride services to social events, functions, medical care, shopping

(9) Category #9 (Social Needs)

Services to encourage and assist residents to use available facilities and services:

- volunteer or staff activity planner
- swimming or water aerobics instructors
- dance or exercise instructors
- crafts instructors
- newsletters, newspapers or flyers informing residents of activities, trips, clubs, etc.
- monthly calendar of events
- resident council or committees to encourage participation in activities

(10) Category #10 (Leisure Needs)

Social and Recreational Facilities:

- clubhouse, communal kitchen, or communal dining area
- library with large print books or subscriptions to publications targeted to older persons

- sauna, jacuzzi or whirlpool
- recreation or game room, arts and crafts room, community room or meeting room
- television room for communal use with VCR
- ping pong, pool or billiard tables, shuffleboard courts, horseshoe pits or bocce ball (with functional equipment)
- golf course
- stage, piano and dance floor
- woodworking shop
- restaurant for resident use
- bank
- legal assistance
- travel agency
- convenience store
- barber shop
- dry cleaners
- hair salon
- lapidary
- kiln
- fishing pond

(11) Category #11 (Health/Safety Needs)

Accessible physical environment:

- accessible clubhouse
- at least one accessible bathroom facility in public and common use areas
- ramps (curbs or drainage ditches are cut or ramped to allow wheelchair/walker access)
- ramped sidewalks in public and common use areas; stairs at a minimum
- benches in all public and common use areas
- assigned and designated parking spaces, including handicapped parking
- accessible swimming pool (i.e., ramped entrance to pool area)
- accessible management office
- accessible dining area or activity area
- vans, buses available with wheelchair lifts or easy access for persons with mobility difficulties
- lift to assist in swimming pool use
- Amplifiers provided on at least 25% of public phones

(12) Category #12 (Social, Leisure, Health, Safety or Educational Needs)

Other:

- Any facility or service which is not listed above but which is designed to meet the health, safety, social or leisure needs of persons who are 55 and older and which is actually available to and used by residents of the property.

(e) A housing provider provides significant facilities and services if the facilities and services are provided on the premises by paid staff, resident volunteers, or by agencies, entities or

persons other than the housing provider. A housing provider provides significant facilities and services if the facilities or services are provided off the premises by paid staff, resident volunteers, or by agencies, entities or persons other than the housing provider, provided that if facilities or services are made available off the premises, the housing provider, through paid staff, resident volunteers, or by agencies, entities or persons other than the housing provider, shall make available transportation services or coordination of information and transportation resources which ensure that residents are aware of and have ready access to such facilities or services.

(f) In determining whether a housing provider provides significant facilities and services, the Department will evaluate the facilities or services that meet the requirements of § 100.305 by the following criteria to determine whether the facilities in the aggregate and the services in the aggregate are "significant":

(1) The extent to which a facility or service can accommodate the older population of the housing facility. The capacity of each facility or service specifically designed to meet the physical or social needs of older persons depends upon but is not limited to such factors as:

(i) The size of the facility in relationship to the scope of the service offered;

(ii) The length of time during which the facility or service is made available or the service is offered;

(iii) The frequency with which the facility or service is made available or the service is offered; and

(iv) Whether the facility or service is offered only at one location or there are a number of locations at which the facility is made available or at which the service is offered.

(2) The extent to which the facility or service will be of benefit to older persons, given the climate and physical setting of the housing facility.

(3) The extent to which the facility or service is actually usable by and regularly available to residents on a day-to-day basis.

§ 100.307 Self-Certification.

(a) A housing provider may indicate, by display of a notice complying with this part, its intent to provide housing for older persons in substantially the same form as the self-certification form which will be made available by the Office of Fair Housing and Equal Opportunity.

(b) Such a notice shall be provided by the Department, and shall include, at a minimum, a certification of compliance with § 100.315 and an indication of the housing provider's intent to provide, and its certification that it does in fact provide, facilities and services which comply with § 100.306.

(c) Such a notice shall be signed by one or more housing providers, with authority to sign.

(d) Such a notice shall be signed under penalty of perjury of the laws of the United States.

(e) Such a notice shall be posted in every public or common area where housing transactions are conducted.

(f) A copy of a current self-certification shall be considered by the Department to be sufficient evidence of compliance with the Act to allow the publication of advertisements, notices or the making of other statements as evidencing the operation of the property in question as housing for older persons and as excluding families with children as described in section 807(b)(2) of the Act. However, the posting of a self-certification notice will not preclude the Department from investigating a complaint of alleged housing discrimination where there is evidence that the housing provider fails to comply with the self-certification.

§ 100.310 Impracticability.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity affirmatively demonstrates through credible and objective evidence that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or §§ 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.310 if it is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons.

(b) In order to satisfy the requirements of § 100.310 the housing provider must affirmatively demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of § 100.310:

(1) Whether the owner or manager of the housing facility has endeavored to

provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.

(2) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.

(3) The geographical or other physical limitations inherent in the property which makes the provisions of facilities or services impracticable.

(4) The income range of the residents of the housing facility.

(5) The demand for housing for older persons in the relevant geographic area.

(6) The vacancy rate of the housing facility.

(7) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area then the housing facility does not meet the requirements of § 100.310.

§ 100.315 80 percent occupancy.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity demonstrates through credible and objective evidence that housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or §§ 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.315 if at least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after March 12, 1989 need not comply with § 100.315 until 25 percent of the units in the facility are occupied.

(b) Housing satisfies the requirements of this section even though:

(1) On September 13, 1988, under 80 percent of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units that are occupied by new occupants after September 13, 1988 are occupied by at least one person 55 years of age or older.

(2) There are unoccupied units, provided that at least 80 percent of the occupied units are occupied by at least one person 55 years of age or over.

(3) There are units occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

(4) There are insufficient units occupied by at least one person 55 years of age or over to meet the 80 percent requirement, but the housing provider, at the time the exemption is asserted:

(i) Reserves all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80 percent of the units are occupied by at least one person who is 55 and older; and

(ii) Meets the requirements of:
(A) §§ 100.305, 100.306, 100.307 and 100.316; or

(B) §§ 100.310, 100.315, and 100.316.

(iii) Where application of the 80 percent rule results in a fraction of a unit, that unit shall be considered to be included in the units which must be occupied by at least one person who is 55 or older.

§ 100.316 Intent to provide housing for older persons.

(a) The provisions regarding familial status in this part shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the person or entity proves that the housing satisfies the requirements of §§ 100.305, 100.306, 100.315 and 100.316 or §§ 100.310, 100.315 and 100.316. Housing satisfies the requirements of § 100.316 if the owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the housing provider to provide housing for persons 55 years of age or older.

(b) The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of § 100.316:

(1) The manner in which the housing facility is described to prospective residents.

(2) The nature of any advertising designed to attract prospective residents.

(3) The use of age verification procedures.

(4) Lease provisions.

(5) Written rules and regulations.

(6) Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

(7) The public posting of the self-certification described in this part.

Note: The following appendix, "Housing for Older Persons—Self-Certification," will not be codified in title 24 of the Code of Federal Regulations.

Dated: July 31, 1995.

Susan Forward,

Deputy Assistant Secretary for Enforcement and Investigations.

BILLING CODE 4210-28-P

U.S. Department of Housing and Urban Development

Housing for Older Persons – Self-Certification

The undersigned hereby certifies that

intends to meet the criteria set forth in the Federal Fair Housing Act in order to qualify as housing for older persons.

This housing facility provides the following facilities and/or services:

Category #1 (Social Needs)

Social and Recreational Services provided on a regular, organized basis

- softball, golf, shuffleboard tournaments, lawn bowling, billiards, or similar team activities
- bridge club, organized card games, chess or checkers
- exercise classes - low-impact, stretching, tai-chi, swim-therapy
- bingo
- fellowship meetings
- musical theater group
- dances, square dancing, polka, ballroom dancing
- at least weekly potluck dinners, breakfasts, luncheons, coffees
- coordinated holiday parties for residents
- Lions club, clubs or classes for sewing, needlepoint, art, gardening, music, books, golf, bowling photography, travel, etc.
- cooking classes
- crafts classes: ceramics, macrame, woodworking, jewelry, quilting, painting
- field trips - bowling, sightseeing, concerts, plays, hiking, shopping outlets
- fashion shows
- on-site movies or other theatrical events
- liaison/coordination with activities at community-wide senior centers and activities
- emergency meal service for residents who are ill or in need
- organized travel opportunities

Category #2 (Educational Needs)

Continuing education activities

- at least monthly presentations on subjects such as health care, nutrition, stress management, Medicare, insurance, social security, tax preparation, vacation planning, gardening, crime prevention
- consumer protection education
- regularly offered CPR classes
- regularly offered language study classes
- regularly offered videotapes on healthcare
- courses available at local educational institutions
- library with magazines for older persons and material available in large print

Category #3 (Educational Needs)

Information and counseling services

- providing new residents with package of information about local services of interest to seniors
- bulletin board for exchange of information or services
- printed resident directory provided to each resident
- free information on cable TV programs for residents
- internal or external support groups for residents
- seminars on the aging process
- on-site legal services
- informational sessions on fire safety, mental health issues, political and environmental issues
- seminars on estate planning, dealing with death or other issues affecting older persons
- seminars on governmental benefits programs

Category #4 (Physical Needs)

Homemaker services

- employees assist with housework or yardwork
- organized committee of residents to perform light household tasks or yard work for those who cannot do them themselves
- referrals to housecleaning services
- bill-paying services
- pet care/pet therapy services
- minor home repair service
- tool loan service

Category #5 (Safety Needs)

Outside maintenance/health and safety services

- on-staff medical personnel with first aid/CPR training
- on-staff repair, maintenance and painting services
- meals on wheels
- lawn care and grass cutting, shrubbery and tree trimming
- snow shoveling and plowing
- systems for referrals to doctors or other health care professionals
- regular system to contact residents who are house-bound to make sure they are o.k.
- referrals for transportation
- systems for referrals to income tax preparer
- systems for referrals to repair and maintenance services
- security guards/parols, organizing neighborhood or block watch
- organizing committee of residents to do household repairs and yard work for those who cannot do them themselves
- exterior lighting - alarm systems monitoring
- vacation house watch
- limited access to property by controlled access gate or similar system

Category #6 (Health Needs)

Emergency and preventative health care programs

- meetings about nutrition, back care, breast cancer/self-examination/mammogram, prostate cancer screening, vision care, or other health care topics (see continuing education)
- monthly blood pressure checks
- annual flu vaccine shots available
- periodic vision or hearing tests
- staff or volunteers pick up food from social services for mobility impaired seniors
- organizing committee or buddy system of residents to do errands for people who become ill and/or to stay with sick persons while their spouses do errands
- emergency telephone network, staff or volunteers monitor people who have serious medical problems
- doctor/medical facilities located within two miles of facility
- health care equipment pool for resident use



This housing facility has determined to provide and does in fact provide at least 10 of the following services and facilities by offering at least 2 facilities or services in at least 5 of the following categories, including specifically at least two facilities from category 10 or from category 11. This housing facility also limits occupancy consistent with the Fair Housing Act which requires that at least 80% of units be occupied by at least one person who is 55 years of age or older. As housing for older persons, we claim an exemption from the provisions of the Fair Housing Act regarding discrimination based on familial status -- that is, the presence of persons under the age of 18.

Category #7 (Social/Health Needs)

Congregate dining

- available congregate dining for at least one meal each day
- sit-down meal service
- special menus for dietary needs
- activities conducted in conjunction with congregate dining

Category #8 (Transportation)

Transportation to facilitate access to social services

- transportation provided to doctors' offices, shopping, religious services, outside social or recreational activities
- public bus stop or train station within walking distance and bus schedules and maps available
- organized system to provide transportation for residents who cannot drive
- sign-up board for shared transportation needs
- shared ride services to social events, functions, medical care, shopping

Category #9 (Social Needs)

Services to encourage and assist residents to use available facilities and services

- volunteer or staff activity planner
- swimming or water aerobics instructors
- dance or exercise instructors
- crafts instructors
- newsletters, newspapers or flyers informing residents of activities, trips, clubs, etc.
- monthly calendar of events
- resident council or committees to encourage participation in activities

Category #10 (Leisure Needs)

Social and Recreational Facilities

- clubhouse, communal kitchen, or communal dining area
- library with large print books or subscriptions to publications targeted to older persons
- sauna, jacuzzi or whirlpool
- recreation or game room, arts and crafts room, community room or meeting room
- television room for communal use with VCR
- exercise equipment
- ping pong, pool or billiard tables, shuffleboard courts, horseshoe pits or bocce ball (with functional equipment)
- golf course
- stage, piano and dance floor
- woodworking shop
- restaurant for resident use
- bank
- legal assistance
- travel agency
- convenience store

- barber shop
- dry cleaners
- hair salon
- lapidary
- kiln
- fishing pond

Category #11 (Health/Safety Needs)

Accessible physical environment

- accessible clubhouse
- at least one accessible bathroom facility in public and common use areas
- ramps (curbs or drainage ditches are cut or ramped to allow wheelchair/walker access)
- ramped sidewalks in public and common use areas; stairs at a minimum
- benches in public and common use areas
- assigned and designated parking spaces, including handicapped parking
- accessible swimming pool (i.e., ramped entrance to pool area)
- accessible management office
- accessible dining area or activity area
- vans, buses available with wheelchair lifts or easy access for persons with mobility difficulties
- Lift to assist in swimming pool use
- amplifiers provided on at least 25% of public phones

Category #12 (Social, Leisure, Health, Safety or Educational Needs)

Other

- Any facility or service which is not listed above but which is designed to meet the health, safety, social or leisure needs of persons who are 55 and older and which is actually available to and used by residents of the property. (Describe)

SIGNED UNDER PENALTY OF PERJURY OF THE LAWS OF THE UNITED STATES OF AMERICA:

signature

printed name

title

authorized representative of the above named housing provider