

**WANDERMERE ESTATES HOMEOWNERS ASSOCIATION (“HOA”)**  
**RULES AND REGULATIONS FOR**  
**HOUSING FOR PERSONS 55 YEARS OF AGE AND OLDER**

**INTRODUCTION**

The Fair Housing Act (the “Act”), Title VIII of the Civil Rights Act, exempts “housing for older persons” from the Act’s prohibition against discrimination because of familial status. Section 807(b)(2)(C) of the Act exempts housing intended and operated for occupancy by persons 55 years of age or older which satisfies certain criteria HUD has adopted implementing regulations further defining the “housing for older persons” exemption at 24 CFR part 100, subpart E (Housing for Older Persons Act, hereinafter: “HOPA”).

There are 4 factors required for a facility to claim the 55 and older exemption:

- (1) that the housing be intended and operated for persons age 55 and older (24 CFR 100.304);
- (2) that at least 80 percent of the occupied units be occupied by at least one person who is 55 years of age or older (24 CFR 100.305);
- (3) the housing facility or community must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons fifty-five (55) years of age or older (24 CFR 100.306);
- (4) the housing facility or community must also comply with rules issued by HUD for the verification of occupancy (24 CFR 100.307).

Wandermere Estates is qualified for the exemption as a community for persons 55 years of age or older, and it is the intent of the HOA that Wandermere Estates shall be operated as housing for persons 55 years of age or older. The intent is stated in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Wandermere Estates (“CC&Rs”), page 1, section 5.1, section 8.2, and section 8.25, and the Bylaws of Wandermere Estates Homeowners Association, section 5.14(a), as well as by the age restriction rules adopted and enforced by the HOA.

The purpose of this document is to aggregate in one place for easy reference the age restriction policies adopted by the HOA within the Rules and Regulations and the broad discretion permitted under the Act and HOPA. The Board of Directors of the HOA, through the rule-making power granted to it by the CC&Rs, may add, delete or change its policies within the scope permitted by the Act and HOPA, Washington laws, or local laws. Throughout this document, the terms “55 years of age or older,” “at least 55 years of age,” and “55+” all have the same meaning.

## **GOVERNING DOCUMENTS**

CC&Rs, Page 1, last paragraph, last sentence:

The undersigned, being the sole owner of the property hereby declares that said Property is a housing community and shall be administered in accordance with Federal and State law to qualify as housing for persons 55 years of age or older.

CC&Rs, Section 5.1 (in part)

5.1 Duties and Powers. In addition to the duties and powers enumerated in the Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

5.1.5 Adopt, amend, or revoke reasonable rules not inconsistent with this Declaration, or the Bylaws relating to ... (2) necessary to insure compliance with the requirements and regulations under Federal and State law to qualify as housing for persons who are 55 years of age and older. Such rules shall be binding on all Lot Owners, their guests, and invitees upon adoption.

5.1.7 Comply and take such steps as are necessary to comply with the requirements and restrictions under Federal and State law for housing for persons 55 years of age or older.

CC&Rs, Section 8.2 (in part)

8.2 Use of Individual Lots. ... The use of individual lots shall be subject to the requirements and restrictions under Federal and State law for housing for persons 55 years of age or older.

CC&Rs, Section 8.25

8.25 Housing for 55 and Older. The Declarant through the Association and the Association thereafter and each Owner of a Lot in Wandermere Estates shall cooperate and assure compliance with Federal and State law for housing for persons 55 years of age and older. At no time shall less than eighty percent (80%) of the occupied Lots and Dwellings be occupied by one person 55 years of age or older, except as otherwise allowed by such law. The Declarant, in the sale of any lot for which there is a dwelling in existence, and any Lot Owner of a Lot with a dwelling thereon, shall take steps to assure that during their ownership and after sale of the occupied Lot, the dwelling shall be occupied by at least one person 55 years of age or older. The Declarant and any such Lot owner shall (1) include in their Lot sale materials language advising of this requirement and requiring written confirmation from the buyer(s) thereof of compliance with the 55 and older requirements upon sale. (2) obtain at each such Lot sale closing and provide to the Declarant and/or Association written verification of the age of the occupants of such Dwelling by obtaining copies of the buyers or occupants drivers licenses or similar identification or by other methods described in the Associations Rules and Regulations for Housing for Persons 55 Years of Age or Older, and (3) cooperate with the Declarant and/or Association in any and all

surveys and verifications of compliance with such laws as may from time to time occur.

Bylaws, Section 5.14 (in part)

**5.14 Powers and Duties.** The business and affairs of the Association shall be managed by the Board. The Board shall have the power to:

(a) Adopt and publish rules and regulations governing compliance with the laws and regulations governing housing for persons fifty-five (55) years of age and older, the use of the common property and facilities, and the personal conduct of the members and their guests thereon and to establish penalties for the infraction thereof;

**WANDERMERE ESTATES HOMEOWNERS ASSOCIATION AGE RESTRICTION POLICIES:**

**I. GENERAL**

In order to remain a 55+ community, federal law and regulations require that a minimum of 80% of the home within Wandermere Estates be occupied by at least one person who is 55 years of age or older. Section 8.25 of the CC&Rs requires all voluntary sales of homes in Wandermere Estates to result in occupancy by at least one person who is 55 years of age or older. This requirement regarding sales is intended to help ensure compliance with the 80% minimum 55+ occupancy.

It is the policy of Wandermere Estates to enforce Section 8.25 of the CC&Rs by requiring that voluntary sales of homes be made only to buyers who have certified that there will be at least one 55+ occupant after their purchase. Wandermere Estates is unlikely to ever be occupied exclusively by 55+ households, as some dwellings may not have a 55+ occupant due to circumstances beyond the control of the owners, whether due to death, divorce, disability, inheritance, or similar circumstances. However, in the case of any voluntary transfer, Wandermere Estates will insist upon certification that the transfer will result in at least one 55+ occupant.

**II. OCCUPANCY**

1. At least eighty percent (80%) of the occupied Dwellings must be occupied by at least one person 55 years of age or older at all times. A Dwelling shall be considered to be occupied by one person 55 years of age or older if:

- A. at least one occupant of the Dwelling is 55 years of age or older; or,
- B. if the Dwelling is temporarily vacant, at least one of the occupants immediately prior to the date on which the Dwelling was temporarily vacated was 55 years of age or older

2. To ensure compliance with the requirements of this section, prior to any voluntary transfer of any Lot improved with a Dwelling, or of any Lot upon which the buyer intends to cause a Dwelling to be built, the seller shall:

A. Prior to advertising the Dwelling or Lot for sale, or listing the Dwelling or Lot with a real estate broker, the seller shall complete and submit to the HOA and the management company for the HOA a Notice of Intent to Sell in the form attached hereto as Exhibit "A."

B. Prior to the transfer:

- (1) submit to the closing agent, if any, a letter in the form attached hereto as Exhibit "B" as supplemental closing instructions;
- (2) provide to the Board the certification of the buyer of the Lot in the form attached hereto as Exhibit "C." If the buyer cannot so certify, or will not execute the certification, then the seller shall not transfer the Lot to the buyer.

C. If the Lot is listed with a real estate broker, provide to the Board the name, address, telephone number and email address of the listing broker within 72 hours after signing the listing agreement. The Board will cause notification of the buyer certification requirement to be transmitted to the listing broker. If the real estate broker was named in the Notice of Intent to Sell, duplicative notice is not required.

D. Include in any written agreement with the buyer of the Lot the provision set forth in Section IV, below.

E. The requirements of this Section II do not apply to the sale of a Lot being sold to a developer or builder for construction of a spec Dwelling. However, these requirements do apply to any sale by a builder or developer selling a Lot to a buyer who intends to occupy the Lot after construction of a Dwelling on such Lot, whether or not the builder or developer will be constructing the Dwelling. Furthermore, the advertising requirements described in Section III, below, apply to all Lots and all sellers.

### **III. PUBLIC POSTING AND ADVERTISEMENT**

1. There shall be at least one public posting prominently displayed in common areas describing Wandermere Estates as housing for persons 55 years of age or older.

2. All advertisements for the sale or display of the Dwellings and Lots in Wandermere Estates, including listings in any multiple listing service, shall clearly state that the Dwelling and/or Lot is located within Wandermere Estates and shall describe Wandermere Estates as "housing for persons 55 years of age or older." Phrases such as adult living, adult community, or other similar phrases are strictly prohibited from use in the description of Wandermere Estates and the Dwellings and Lots therein.

3. All prospective purchasers and residents shall be advised in writing that the housing is for persons 55 years of age or older.

4. These Rules shall be available to all occupants and be displayed in the common area.

5. Fines.

A. Failure to include appropriate language in marketing materials including but not limited to brochures, newspaper advertising, internet advertising, multiple listing service listings, and open houses will be subject to fines. The fine schedule is as follows:

- (1) First offense: \$50.00. A first offense is only applicable to the first fine levied against a particular property owner for violation of these advertising rules; all subsequent violations by the same property owner will begin at \$100.00.
- (2) If not corrected within 48 hours an additional fine of \$100.00 will be levied.
- (3) Further fines of \$100.00 per day will be levied if materials are not corrected to comply with these rules.

B. It is the responsibility of the property owner to ensure compliance with this requirement by any party advertising the Dwelling/Lot, and any fines will be assessed against the property owner. A property owner may not avoid a fine on the grounds that the violation was committed by a real estate broker or other third party with whom the property owner has contracted.

**IV. PURCHASE AGREEMENTS**

1. Every purchase agreement entered into after the effective date of these Rules and Regulations for any Dwelling, or for any Lot upon which the buyer intends to cause a Dwelling to be constructed for the buyer's occupancy, shall contain a provision in substantially the following form, which may be in an addendum to such purchase agreement so long as signature lines for the buyer and seller appears below the provision, together with a copy of the Buyer 55+ Occupancy Certification attached hereto as Exhibit "C":

By signing this agreement, buyer/purchaser acknowledges that the subject property is within Wandermere Estates, which is housing for persons 55 years of age or older. Sales that will not result in at least one occupant of the subject property who is at least 55 years of age are prohibited. The undersigned buyer/purchaser hereby represents and warrants that: 1) I have personal knowledge of the ages of the persons who will occupy the subject property after closing under this Agreement; and, 2) at least one of those persons will be 55 years of age or older on the date of closing. Seller's obligation to close under this Agreement is contingent upon buyer/purchaser's execution of a Buyer 55+ Occupancy Certification in the form attached hereto as Exhibit "C." The foregoing contingency may be satisfied by buyer/purchaser's execution and delivery of the attached Buyer 55+ Occupancy Certification at any time prior to closing, but under no circumstances may seller waive such contingency. Wandermere

Estates Homeowners Association is an intended third-party beneficiary of this Agreement to the extent of seller's rights under this provision.

## **V. VERIFICATION OF OCCUPANCY**

1. At least once every two years, but not more often than annually, the Homeowners Association shall conduct a survey of all residents of Dwellings to ensure compliance with the requirements set forth in Section I above.

A. As part of the survey, the Homeowners Association shall require that all occupants of Dwellings provide verification of the age of the occupants upon request by producing any of the following:

- (1) Drivers license
- (2) Birth certificate
- (3) Passport
- (4) Immigration Card
- (5) Military Identification
- (6) Any other state, local, national, or international official document containing a birth date of comparable reliability
- (7) A certification in an application, affidavit or other document asserting that at least one member of the unit is 55 years of age or older

B. In the event a member of a Dwelling refuses to comply with age verification, the Homeowners Association may consider the unit to be occupied by at least one person 55 years of age or older if there is sufficient evidence to support this conclusion. Such evidence may include:

- (1) Government Records or documents such as local household census
- (2) Prior Forms or Applications
- (3) A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for the knowledge and be signed under the penalty of perjury.

2. The Homeowners Association shall maintain a complete record of reliable surveys conducted and a summary of such survey shall be made available for inspection upon request.