

## Compliance Requirements for Elderly Projects

Owners/managers of rental housing projects designated as “elderly” must comply with the requirements of the appropriate elderly definition as described below based on the source(s) of funding and the project’s Regulatory Agreement.

| If Project funding is:                               | Then follow this definition of Elderly:   |
|--|---|
| HUD Multifamily Section 8 – any combination          | HUD Multifamily Section 8   |
| USDA Rural Development (RD or RHS) – any combination | USDA Rural Development (RD or RHS) – any combination  |
| MSHDA Funded Only                                    | MSHDA   |
| LIHTC – any combination                              | Check LIHTC Regulatory Agreement for required definition. Exhibit B will state if the development must follow MSHDA’s, HUD’s, RHS’s or another definition of elderly. |
| Other  | Please note that some local governments and funding providers may impose more restrictive requirements (i.e. PILOT, etc.)   |

### ELDERLY DEFINITIONS

#### MSHDA:

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| Location:   | State Housing Development Authority Act<br>Act No. 346 of the Public Acts of 1966, as amended<br>Effective Date: December 9, 2004   |
| Citation:   | Section 125.1411(o)   |
| Definition: | “Elderly” means a single person who is 55 years of age or older or a household in which at least 1 member is 55 years of age or older and all other members are 50 years of age or older. <a href="http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-346-of-1966.pdf">http://www.legislature.mi.gov/documents/mcl/pdf/mcl-act-346-of-1966.pdf</a> |

#### LIHTC:

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| Location:   | 2015 Qualified Allocation Plan (QAP)<br>(This can also be found in prior QAPs and individual projects Regulatory Agreements)   |
| Citation:   | QAP Section V, Item C  |
| Definition: | Projects in which 100% of the units serve tenants that conform to the federal agency(s) definition of elderly or the MSHDA definition of elderly under the MSHDA Act.<br><a href="http://www.michigan.gov/documents/mshda/mshda_li_gap_2015_2016_qap_final_462647_7.pdf">http://www.michigan.gov/documents/mshda/mshda_li_gap_2015_2016_qap_final_462647_7.pdf</a> |

#### HUD Multifamily Section 8:

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| Location:   | 4350.3 Rev-1  |
| Citation:   | Paragraph 3-17, Figure 3-5 and Figure 3-6   |
| Definition: | Elderly Family. Elderly family means a family whose head or spouse or sole member is a person who is at least 62 years of age. It may include two or more persons who are at least 62 years of age living together, or one or more persons who are at least 62 years of age living with one or more live-in aides.<br><a href="http://portal.hud.gov/hudportal/documents/huddoc?id=43503c3HSGH.pdf">http://portal.hud.gov/hudportal/documents/huddoc?id=43503c3HSGH.pdf</a> |

**USDA Rural Development (RD or RHS):**

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| Location:   | HB-2-3560  |
| Citation:   | Chapter 6, Section 6.5 B   |
| Definition: | Elderly families: A household where the tenant, co-tenant, member, or co-member is at least 62 years old, or disabled, as defined below. An elderly family may include a person younger than 62 years of age. (To receive an elderly family deduction, the person who is elderly, disabled must be the tenant, cotenant, member, or co-member.)<br><a href="http://www.rurdev.usda.gov/SupportDocuments/3560-2chapter06.pdf">http://www.rurdev.usda.gov/SupportDocuments/3560-2chapter06.pdf</a> |

**HOME:**

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| Location:   | Fair Housing Act (FHAct) and Housing for Older Person Act of 1995   |
| Citation:   | Acts  |
| Definition: | <p>Senior Housing Exemption</p> <p>Although the FHAct 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 residents. Housing that meets the FHAct definition of housing for older persons is exempt from the law's familial status requirements, provided that:</p> <ul style="list-style-type: none"> <li>• HUD has determined that the dwelling is specifically designed for and occupied by elderly persons under a Federal, State or local government program or</li> <li>• It is occupied solely by persons who are 62 or older or</li> <li>• 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.</li> </ul> <p>Therefore, housing that satisfies the legal definition of senior housing or housing for older persons described above, can legally exclude families with children.</p> <p><a href="http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/seniors">http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/seniors</a><br/><a href="http://www.hud.gov/offices/fheo/library/hopa_final.pdf">http://www.hud.gov/offices/fheo/library/hopa_final.pdf</a></p> |

**Public Housing Authorities (Project Based PHA Vouchers):**

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| Location:   | 24 CFR 945   |
| Citation:   | § 945.105  |
| Definition: | <i>Elderly family</i> means a family whose head, spouse, or sole member is an elderly person. The term “elderly family” includes an elderly person, two or more elderly persons living together, and one or more elderly persons living with one or more persons who are determined to be essential to the care or well-being of the elderly person or persons. An elderly family may include elderly persons with disabilities and other family members who are not elderly.<br><a href="http://www.gpo.gov/fdsys/pkg/CFR-2014-title24-vol4/pdf/CFR-2014-title24-vol4-sec945-105.pdf">http://www.gpo.gov/fdsys/pkg/CFR-2014-title24-vol4/pdf/CFR-2014-title24-vol4-sec945-105.pdf</a> |