



**HOUSING FOR OLDER PERSONS ACT
(HOPA)
Policies and Procedures July 2026**

**HOUSING FOR OLDER PERSONS ACT
(HOPA)
POLICIES AND PROCEDURES
OF
RIVERWIND HOMEOWNERS
ASSOCIATION, INC.**

**A NONPROFIT CORPORATION
IN HENDERSON COUNTY, NORTH CAROLINA
RESTRICTED TO PERSONS
AGES 55 YEARS AND OVER**

Replaces any and all HOPA Policies and Procedures adopted before July 2026 by
Riverwind Homeowners Association, Inc.



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

Background

The Fair Housing Act of 1968 made discrimination by age illegal. However, HOPA amended the Fair Housing Act to recognize the "housing for older persons" exemption and established the criteria which must be met in order to qualify for the designation of a "senior" community. A copy of the HOPA document noted as 24 CFR Part 100 from the Federal Register, Volume 64, Number 63, dated April 2, 1999, is available on the Riverwind web page or at the following government web location: <https://www.govinfo.gov/content/pkg/FR-1999-04-02/pdf/99-8167.pdf>.

This document represents Riverwind Homeowners Association (HOA), Inc. Policies and Procedures that demonstrate its intent to operate as housing for persons 55 years of age or older.

Riverwind Policy

It is the policy and responsibility of the Riverwind HOA, Inc. Board of Directors (BOD) to ensure Riverwind will comply with all Housing for Older Persons Act (HOPA) requirements, as a housing community for persons who are 55 years of age or older, as stipulated in the Federal Register, Implementation of the Housing for Older Persons Act of 1995 dated April 2, 1999.

It is Riverwind BOD policy that all Riverwind occupants provide age verification and receive Riverwind HOA Covenants, Bylaws, Rules and Regulations and HOPA Policies and Procedures upon occupancy.

What is HOPA?

As noted above, the Housing for Older Persons Act of 1995 (HOPA), was a remedial amendment to the Fair Housing Act of 1968. HOPA recognized the "senior" community housing exemption in the Fair Housing Act, provided for it, and established the criteria which must be met in order to qualify for the designation of a "senior" community.

HOPA amended the Fair Housing Act as follows:

- (1) HOPA eliminates the requirement that qualified housing for persons age 55 or older have "significant facilities and services" designed for the elderly to meet the physical or social needs of older persons.
- (2) HOPA provides "good faith defense" against civil money damages for persons who in good faith believe and rely on a written statement that a property qualifies for the 55 or



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

older exemption, unaware that the property is ineligible for the exemption. (Refer to Section 100.308 of the Housing and Urban Development (HUD) requirements for a more detailed explanation).

(3) HOPA revises Section 100.304, which presents an overview of the exemption, detailing what qualifies as a housing facility or community.

(4) HOPA creates a new Section 100.305, which updates the 80 percent occupancy requirements.

(5) HOPA Section 100.306 describes how a facility or community may establish its intent to operate as housing designed for persons at least 55 years of age or older.

(6) HOPA Section 100.307 sets forth the necessary procedures for verification of the 80 percent occupancy requirements.

Why are we concerned with HOPA requirements?

If an individual from the surrounding area files a complaint based on familial status and Riverwind claims the senior community exemption as a defense, Riverwind bears the burden of proving that we are in compliance with HOPA requirements as of the date of occurrence of the alleged act or incident of discrimination.

(Note: Familial status is a protected class under the federal Fair Housing Act that makes it illegal to discriminate in housing against families with children under the age of 18).

What must Riverwind do to qualify for the 55 or older housing for older persons exemption?

HOPA requires that a facility or community seeking to claim the 55 and older exemption show three factors:

(1) At least 80 percent of Riverwind occupied units must be occupied by at least one person 55 years of age or older per unit; see Section 100.305 of Federal Register dated April 2, 1999 [HUD] page 16329.

(2) Riverwind must publish and adhere to policies and procedures that demonstrate an intent to provide housing for persons 55 years or older; see Section 100.306 of Federal Register dated April 2, 1999 [HUD] page 16330.

(3) Riverwind must comply with rules issued by the Secretary [HUD] for verification of occupancy through reliable surveys and affidavits; see Section 100.307 of Federal Register dated April 2, 1999 [HUD] page 16330.



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

These HOPA criteria are not voluntary, but mandatory, and will be challenged by HUD should a claim of discrimination be filed and a HUD investigation commence.

RIVERWIND PROCEDURES

Procedures that demonstrate Riverwind's intent to operate as housing for persons 55 years of age or older, are listed below.

Section 100.304. Riverwind meets the requirements of Section 100.304 because we are governed by a homeowners' or resident association; we are governed by a common set of rules, regulations or restrictions and we comply with Sections 100.305, 100.306 and 100.307.

Section 100.305. Riverwind meets the requirements of Section 100.305 because 80 percent of its occupied units are occupied by at least one person 55 years of age or older. For survey purposes, only occupied dwellings and temporarily vacant are counted. (Temporarily vacant refers to dwellings where the occupant is seasonal or hospitalized.)

Calculation of the 80%:

The information obtained from the Survey as described in Section 100.307, forms the basis for the calculation of the survey. This survey information is to be totaled and transferred to the calculations, as outlined in the following calculation example.

Housing For Older Persons ACT (HOPA) Survey

Total Number of Homes in Riverwind	243
Number of Vacancies	18
Total Available Homes Available for Survey	225
Total Number of Homes Surveyed	225
Total Number of Homes with Information Available	210
Of the Total Number of Homes with Information Available, the number of Homes with at least one person over 55	210
Of the Total Number of Homes with Information Available, the number of Homes with no one over 55	0
Percentage of Homes with at least one person over 55	93%



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

There continues to be confusion concerning what is often referred to as the 80/20 split. HOPA states that the minimum standard to obtain housing for persons who are 55 years of age or older status is that "at least 80%" of the occupied units be occupied by persons 55 years of age or older. There is no requirement that the remaining 20% of the occupied units be occupied by persons under the age of 55, nor is there a requirement that those units be used only for persons where at least one member of the household is 55 years of age or older.

It is Riverwind's intent through its Policies, Procedures, Covenants, actions, etc., to continue to show 100% occupancy of persons age 55 years and older.

The supporting survey information gathered in support of the calculation and the calculation summary itself, will be retained in a separate file with access limited to the Riverwind Homeowners Association Board of Directors, created for the sole purpose of complying with HOPA.

Section 100.306. In order for a housing facility or community to qualify as housing designed for persons who are 55 years of age or older, it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older.

Riverwind will publish (to make publicly known, announce, proclaim, divulge, or distribute) and adhere to the following procedures, in order to demonstrate its intent to operate as housing for persons 55 years of age and older.

- (1) Advertising designed to attract prospective residents:
 - (a) A sign is placed at the Riverwind entrance describing the community as: "a community of persons 55 and older".
 - (b) Riverwind web page states we are a 55+ planned community. Riverwind residents have electronic access to information, documentation and improved methods of posting events, real estate or items for sale. In addition, the web page provides an excellent vehicle for real estate agents to advertise homes for sale plus they have the opportunity to refer prospective buyers to the web page for a closer look at Riverwind's amenities and lifestyle.
- (2) Lease provisions. Riverwind lease provisions contain certification we are a community of persons 55 and older.
- (3) Written rules and regulations. Restricted Covenants of Riverwind state throughout the document we are a community of persons age 55 and older.



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

(4) The maintenance and consistent application of the following relevant procedures are both a policy and a responsibility of the Riverwind HOA Board of Directors to strictly follow the HOPA requirements:

- (a) Verification of compliance to Section 100.305, 80 percent occupancy.
- (b) To demonstrate intent to operate as housing designed for persons who are 55 years of age or older; Section 100.306, we actively pursue the procedures as stated, in this section.
- (c) Procedures for routinely determining the verification of occupancy of each unit including the verification of age policy; Section 100.307.
- (d) The following "Actual practices of Riverwind" are further applications of procedures that are to be followed in Riverwind.

(5) Actual practices of Riverwind:

- (a) A Document List and Residency Age Verification form. It is the responsibility of a HOA Board Director or Welcome Committee member to visit with each new resident in Riverwind, upon occupancy, to distribute pertinent documents such as Covenants, Bylaws, Rules and Regulations, HOPA requirements, etc. New residents are to complete the age verification form providing address, signature and certification that one of the occupants meets the 55+ requirement.
- (b) The Riverwind Community directory shall contain a statement that we are a community of persons 55 years and older.
- (c) The Riverwind monthly newsletter shall state we are a 55 + Community.
- (d) The Riverwind web page states we are a 55+ community.
- (e) A HOPA Committee has been established, through the approval and support of the Riverwind Homeowners Board of Directors, to monitor changes of residency throughout the year. A Riverwind database is being maintained to continually update resident status based on input from the Riverwind bookkeeper, BOD, individual residents and Welcome Committee visits. The HOPA Committee's responsibilities will be to report HOPA relevant findings to the BOD and to keep the HOPA filing system up to date.
- (f) Riverwind will publish via the monthly newsletter, information concerning Riverwind's HOPA Policies and Procedures and place a copy of the HOPA Policies and Procedures document in the Riverwind library for review and usage of residents and visitors.
- (g) Copies of Riverwind's HOPA Policies and Procedures will be available to those residents who feel they prefer a copy of their own.



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

(h) Copies of Riverwind's HOPA Policies and Procedures, as well as, all Riverwind Covenants, Bylaws and Rules and Regulations are available on the Riverwind web page.

(6) Public posting in common areas of statements describing Riverwind as housing for persons 55 years of age or older:

- (a) Sign at Riverwind entrance "a community of persons 55 and older".
- (b) Phrases such as "adult living", "adult community", or similar statements in public postings, written advertisements or procedures are not consistent with the intent that Riverwind intends to operate as housing for persons 55 years or older per Section 100.306 of HUD. These phrases shall not be used. Periodically, a review of all Riverwind documentation will be made to eliminate such phrases.
- (c) If there is language in deed or other Riverwind community documents which is inconsistent with the intent to provide housing for persons who are 55 years of age or older housing, HUD shall consider documented evidence of a good faith attempt to remove such language in determining whether Riverwind complies with the requirements of this section, 100.306, by keeping a vigil on inconsistent language and taking the necessary steps to remove and revise.

Section 100.307, Verification of Age Policy. In order for a housing facility or community to qualify as housing for persons 55 years of age or older, it must be able to produce, in response to a complaint filed under this title, verification of compliance with Section 100.305 through reliable surveys and affidavits.

The Riverwind Welcome Committee visits with each new resident. The committee will request to see the resident's driver's license or any other approved form of identification and have the resident sign a form attesting that they have received Riverwind Governance documents and that at least one of the residents is 55 or older. This form is maintained by the Welcome Committee in a locked filing cabinet.

Any of the following documents are considered reliable documentation, per Section 100.307 of HUD, Subsection (d), of the age of the occupants of Riverwind:

- (1) Driver's license;
- (2) Birth certificate;
- (3) Passport;
- (4) Immigration card;
- (5) Military identification;
- (6) Any other state, local, national, or international official documents containing a birth



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

date of comparable reliability; or

(7) A certification in a lease, application, affidavit or other document signed by any member of the household age 18 or older asserting that at least one person in the unit is 55 years of age or older.

Should Riverwind become concerned about misrepresentation of the age of occupants, it is free to require that affidavits from occupants about the ages of persons in their households be signed under the penalty of perjury.

If occupants refuse to comply with the age verification procedures, per HOPA Section 100.307, Subsection (g), Riverwind may, if it has sufficient evidence, consider the unit to be occupied by at least one person 55 years of age or older. Such evidence may include:

- (1) Government records or documents, such as a local household census;
- (2) Prior forms or applications; or
- (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 such knowledge and be signed under the penalty of perjury.

Surveys and verification procedures which comply with HOPA requirements for Section 100.307 shall be admissible in administrative and judicial proceedings for the purpose of verifying occupancy per Section 100.307 Subsection (h).

Section 100.307, Occupancy Survey. At least once every two years, the Riverwind BOD conducts a survey to determine whether the 80 percent 55+ occupancy requirement (Section 100.305) is met. A sample of that calculation was noted above under Section 100.305.

The Riverwind BOD maintains a database entry for each resident that includes the residents' address and whether they are 55+. On demand, a printout with current information can be provided to HUD representatives as necessary. At least once every two years, Riverwind will create an automated report and store the results in a locked filing cabinet. A mail-out survey will be made if necessary.

Section 100.308. Per this section, a person shall not be held personally liable for monetary damages for discriminating on the basis of familial status, if the person acted with the good faith belief that Riverwind qualified for a housing for older persons exemption.

A person claiming the good faith belief must have actual knowledge that Riverwind has, through an authorized representative, asserted in writing that it qualifies for a housing for older persons



HOUSING FOR OLDER PERSONS ACT (HOPA) Policies and Procedures July 2026

exemption. Therefore, Riverwind will state formally, in writing, through an authorized representative that Riverwind complies with the requirements for an exemption.

Before the date on which the discrimination is claimed to have occurred, Riverwind, through its authorized representatives, must certify, in writing and under oath or affirmation, to the person subsequently claiming the defense, that it complies with the requirements for such an exemption as housing for persons 55 years of age or older in order for such person to claim the defense.

For purposes of this section, an authorized representative of Riverwind means the individual, committee, management company, owner or other entity having the responsibility for adherence to the requirements of Section 100.308. In Riverwind's case, the authorized representative will be designated by the Riverwind HOA Board of Directors.

A person shall not be entitled to the good faith defense if the person has actual knowledge that Riverwind does not, or will not, qualify as housing for persons 55 years of age or older. Such a person will be ineligible for the good faith defense regardless of whether the person received the written assurance described above.